

# CONSTITUTIONAL CONVENTION

BULLETIN NO. 9

## The Executive Department

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LEGISLATIVE REFERENCE BUREAU

Springfield, Illinois



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ILLINOIS LEGISLATIVE REFERENCE BUREAU

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## I. SUMMARY.

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This bulletin presents a detailed survey of the present executive organization of Illinois. This survey divides the executive organization into three groups: (1) The constitutional state officers. (2) The departments under the civil administrative code. (3) Offices, boards and commissions which are neither created by the constitution nor provided for by the civil administrative code. Following the detailed statement regarding the present executive organization, will be found an analysis of the present functions and duties of the present constitutional state officers.

The constitutional convention will have to do primarily with the state executive offices now provided for by the constitution, but special attention should be called to the fact that almost none of the duties of these offices are prescribed by the constitution. It is therefore necessary to resort to the statutes in order to describe the duties of these constitutional officers. These duties may, by statute, be withdrawn from the constitutional officers upon whom they are now imposed, and be transferred to purely statutory officers.

The department under the Civil Administrative Code, and numerous miscellaneous offices and boards owe their existence entirely to statutes. The parts of the executive department which are based entirely upon statute have numerous duties which overlap and conflict with duties imposed by statute upon the constitutional state officers. This overlapping of functions as between the constitutional and the statutory officers may to a great extent now be dealt with and remedied by statute, although any thoroughgoing reorganization of functions as between the constitutional and the statutory officers is interfered with because of the difference in status of these two types of officers. As a matter of fact the political position of the constitutional state officers makes it practically impossible to transfer functions from these officers by statute, against the will of the persons holding such offices. The constitutional status of certain officers which are popularly elective therefore constitutes a very definite barrier to the readjustment of functions, unless such readjustment be made by the transfer of new functions to the constitutional officers.

This bulletin is devoted primarily to a detailed analysis of statutory provisions regarding the executive organization. Such an analysis is necessary in order to present a full view of the present executive organization. It is not assumed that the constitutional convention will seek to place in the constitution detailed provisions regarding the present executive organization. The executive department is one whose organization must expand with the increase in duties to be performed by the state. During the past fifty years an enormous increase has taken place in the duties performed by state

governments, and it is probable that this increase in state functions will continue. A detailed executive organization such as that proposed in the New York rejected constitution of 1915 or such as that authorized by a Massachusetts constitutional amendment of 1917 is likely to make great trouble in the future. Here, as elsewhere in the constitution, much is to be gained by omitting details from the constitution, leaving the executive organization to be built up by statutory enactments.

In the bulletin on the short ballot will be found some discussion of the application of the short ballot principle to state executive organization. The subject of the executive veto power is dealt with in only an incidental way in this bulletin, but will be found fully discussed in the bulletin dealing with the legislative department. The relationship of the governor to appropriations is fully discussed in a bulletin dealing with state and local finance. So far as they have to do with the legislative and judicial departments, the problems of appointment and removal of officers will be found discussed in bulletins upon the legislative and judicial departments. It has been thought desirable, however, to present in this bulletin a rather full review of the present constitutional provisions bearing upon appointment and removal, inasmuch as these matters primarily concern the executive department.



## II. DEVELOPMENT OF THE EXECUTIVE DEPARTMENT.

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**Constitutional Development.** The constitution of 1818 gave little power to the executive department. It provided that the executive power of the State should be vested in a Governor, but his powers were curtailed by granting extensive appointive powers to the General Assembly, and by placing the veto power in the hands of a council of revision composed of the Governor and the judges of the Supreme Court. The General Assembly was empowered to appoint judges of the Supreme Court and of inferior courts, and "an auditor of public accounts, an attorney general, and such other officers for the State as may be necessary . . . ." The Governor appointed the secretary of state with the advice and consent of the Senate.

The power of the General Assembly to appoint certain officers proved unsatisfactory and the framers of the constitution of 1848 took steps to change this method of appointment. The first constitution contained the provision that the governor should appoint with the advice and consent of the Senate all officers whose offices were established by the constitution or by law and whose appointment was not therein otherwise provided for. The constitution of 1848 added the provision, "And no such officer shall be appointed or elected by the General Assembly." The intention to strengthen the executive was further demonstrated by the abolition of the Council of Revision and the substitution of a qualified veto power exercised by the governor alone. A majority vote of both houses, however, was all that was necessary to pass a measure over the Governor's veto and this was the same vote as had been necessary to enact a measure after its disapproval by the Council of Revision. The Constitution of 1870 again strengthened the power of the executive at the expense of the General Assembly by making a two-thirds vote necessary to override the veto of the Governor. It also omitted the restriction that the Governor could only hold office four years in any term of eight years. Fourteen years after the adoption of the constitution (in 1884) the people ratified the only amendment to the executive article of the constitution of 1870 that has been adopted. This amendment further strengthened the governor's power by empowering him to veto items and sections in appropriation bills. This was an important step toward giving the executive a position of definite responsibility in regard to state appropriations and expenditures.

Part of the appointive power which the General Assembly possessed under the first constitution was in 1848 given to the Governor, and part of it was given to the people by providing for

more elective state officers. Under the Constitution of 1848, the secretary of state, auditor, and treasurer were elective, in addition to the Governor and the lieutenant governor, who were the only popularly elective state officers under the Constitution of 1818. The growing tendency to increase the number of state officers was manifest in the proposed constitution of 1862. Its enumeration of elective state officers, like many of its other provisions concerning the executive department, was a few years later embodied in the constitution of 1870. It proposed to have the same seven elective state officers we have today: Governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general. These officers were only to be elected for a two-year term, which seems to indicate some dissatisfaction with popularly elected state officials. However, the terms of all popularly elected state officers, except treasurer, were fixed at four years by the Constitution of 1870, and the restriction that the Governor could only serve four years in any term of eight years was omitted.

**Statutory development.** In the preceding paragraphs we have traced the constitutional development of the executive department. There still remains to be considered the statutory development. The General Assembly has all powers not granted to the federal government nor forbidden the states by the Constitution of the United States, and all powers not forbidden it by the state constitution. Under these broad powers the General Assembly has enacted many statutes dealing with the executive department. The statutes, in fact, cover the greater part of this bulletin, and consideration of them is necessary in order to present the constitutional problems at issue.

The creation of separate offices, departments, boards and institutions, many of them with extensive powers, has been a gradual development. These statutory agencies were not a very important consideration for the framers of our earlier constitutions, for the executive department was not nearly as complex as it is today. At the time of the adoption of the Constitution of 1848, the constitutional state officers, and three state institutions embraced the entire executive department. When the Constitutional Convention of 1862 met, two institutions, a normal school, and two officers had been added. Between 1862 and 1870, six institutions, a normal school, the university and seven boards and offices were added, so that when the framers of the Constitution of 1870 met they were dealing with an executive department consisting of five state officers and about twenty-five independent offices, boards and institutions, which is less than one-fourth of the number that existed in 1917.

Each succeeding session of the General Assembly has led to the establishment of new authorities, often with little reference to previously existing authorities, either as to form of organization or the scope of their powers. Most of them were substantially independent



of each other, and subject to no control except the nominal supervision of the Governor. The assumption by the state of each new function, as a rule, involved the creation of a state administrative board, commission or officer, to which was entrusted the direct exercise of the function. These independent agencies tended toward the decentralization of the executive power, for the increase in the number of appointive offices did not bring about a corresponding increase in the administrative importance of the Governor.

A state board of equalization had been created in 1867 and its administration of state revenues seems to have caused the first tangible dissatisfaction with these independent agencies. Its members were elected, one from each congressional district, and it grew to be and long remained an important factor in state politics. A legislative commission appointed to investigate the revenue system of the state recommended its abolition as early as 1886, and a tax commission made the same recommendation in 1910.

**Consolidation.** Naturally, this irresponsible system of independent state boards was particularly bad for the state institutions, and because of their large number, geographical distribution, and the fact that they were spending the bulk of the appropriations, the conditions eventually became known to the people. In response to insistent demands because of some specific abuses, Speaker Edward D. Shurtleff appointed a special investigating committee January 14, 1908, in accordance with a resolution passed by the House of Representatives. This committee published an exhaustive report of over a thousand pages. It found the institutions in an unsatisfactory condition and recommended the creation of a central state board of control for their administration. Accordingly, a board of administration was created the following year (1909), to which was given the management and control of all the state charitable institutions.

The same session of the General Assembly that provided for the investigation of state institutions also passed a resolution directing the Governor to appoint an educational commission to investigate the common school system of the state. This commission published a comprehensive report on this subject and drafted a bill providing for the creation of the state board of education to strengthen our common school system. This board was to consist of the superintendent of public instruction, as chairman, and representatives of various school interests selected by the Governor with the approval of the Senate.

In 1913, the work of the fish commission and the game commissioner was consolidated, and a game and fish conservation commission was created to perform their functions.

In his inaugural address, in 1913, Governor Edward F. Dunne recommended the abolition of the state board of equalization, the consolidation of the park boards of the city of Chicago, and an examination into the affairs of the public institutions of the state

with a view to the reduction of expenditures. Subsequently, a resolution was passed by the General Assembly directing an investigation of the state boards, commissions and bureaus in order to determine whether greater efficiency and economy could be secured by a reorganization and consolidation of administrative machinery.

The committee appointed to carry on this work was known as "The Efficiency and Economy Committee." After an exhaustive investigation, the committee submitted a report recommending the consolidation of more than a hundred state offices into ten departments, under authorities directly responsible to the Governor for the conduct of their departments. The committee also recommended a revision of the laws relating to state contracts, and this revision was made by the General Assembly in 1915. The office of printer expert was abolished and a superintendent of public printing created with extensive and effective powers, but responsible to the Governor. This was practically the only change recommended by the Efficiency and Economy Committee made at the session of 1915, but the report of the committee formed the basis for the Civil Administrative Code, which was enacted two years later.

In 1916, Governor Frank O. Lowden made his campaign for the Republican nomination and for election largely upon the issue of state administrative reorganization. After his election, the General Assembly, in 1917, passed the Civil Administrative Code. It consolidated into nine departments more than fifty functions and departments previously independent of each other. It also provided for an executive budget. It is probably the most important and effective measure relating to governmental reorganization that has been enacted in any state in the union.

The 51st General Assembly, in 1919, abolished the board of equalization and created a state tax commission in its place. This General Assembly also provided for the appointment of a commission to investigate and report a plan for the standardization of compensation of employes of the state, which is closely related to the important question of civil service. We have been discussing administrative officers and agencies. There remains to be considered the employes in the various divisions of the executive department.

**Civil service.** The demand for a state civil service system was first made a political issue in 1900. At that time there were but two state civil service commissions in the country—New York and Massachusetts. In 1905 a civil service law was enacted which applied the merit system of appointment to persons employed in the charitable institutions of the state, excluding all members of charitable boards, trustees and commissioners, superintendents of charitable institutions, one chief clerk and one stenographer for each institution. In each succeeding political campaign, both leading parties pledged their support to the extension of civil service. In 1909, with the establishment of the state board of administration, forty-seven new positions came under the merit system. The follow-



ing year the question, "Shall the next General Assembly extend the merit system by the enactment of a comprehensive and adequate state civil service law?" was submitted to the voters of the state under the public policy law. The result was 411,676 in favor of extension and 121,132 against extension. The civil service law was amended in 1911 by extending the merit system to many additional positions and places of employment in the state service, with certain exemptions. As a result of this extension, about two thousand new employes were brought under civil service, or eighty per cent of the entire service of the state, making a total of 4,479 employes under civil service as compared with 2,259 during the previous year.<sup>1</sup>

The following year the constitutionality of the law was upheld by the Supreme Court in the case of *People, ex rel Gullett v. McCullough*, 254 Ill., 9 (1912), which is discussed in this bulletin under the functions of the civil service commission. The act has been repeatedly upheld by the Supreme Court. The court has decided, however, that the state board of agriculture (which was abolished January 1, 1919) and the farmers' institute are not state departments, their employes are not state employes, and, consequently, they were not under the civil service law, although supported by state appropriations.<sup>2</sup>

The next session after the extension of the civil service law (1913) saw the beginning of a movement to increase the number of exemptions from civil service. The state highway department and the public utilities commission were created and several positions in these departments were exempted from civil service. The Civil Administrative Code enacted in 1917 did not amend, modify or extend the application of the civil service law. When the code went into effect practically every employe in the classified service of the agencies that were abolished was transferred to a corresponding position under the new organization.

The Fiftieth General Assembly (1917), however, also enacted a statute providing that removals from civil service could be made without a trial or hearing, and that the civil service commission had no jurisdiction to review the act of the removing officer, nor to investigate the removal or a reduction in rank unless it was alleged that the removal or reduction was made for political, racial or religious reasons. The act also removed from the classified service of the state the superintendent and assistant superintendent of the capitol building and grounds, all law clerks and special investigators in the office of the attorney general, a private secretary and a stenographer for each elective officer, a private secretary to each director under the Civil Administrative Code, and insurance actuaries and examiners of insurance companies. The Fifty-first General Assembly in 1919 still further extended the exemptions by providing that all regularly licensed veterinary surgeons employed by the department of agriculture, and all clerks, watchmen and policemen employed in the offices of the elective officers in the executive department, and

<sup>1</sup> Sixth annual report of the civil service commission of Illinois. 1911, v. 1, p. 8.

<sup>2</sup> *State Board of Agriculture v. Brady*, 266 Ill. 592 (1915); *Illinois Farmers' Institute v. Brady*, 267 Ill. 98 (1915).

in the office of the clerk of the Supreme Court should be exempt from the classified service. It established a precedent by providing in an act creating a new board, the board for vocational education, that the board might appoint without reference to the civil service law such technical assistants, clerks and stenographers as might be necessary.

On December 1, 1919, there were 6,285 persons in the classified civil service of the state. Of this number 3,943 were in the department of public welfare.

**Increase in appropriations.** The appropriations for the biennium 1873-1874 were \$6,648,187. According to the statement issued by the auditor of public accounts, the appropriations for the biennium 1919-1920 were \$172,631,183. Of this amount \$60,000,000 is to be expended for a state system of hard roads, bonds for this amount having been authorized by popular vote; \$20,000,000 is for a deep waterway, this expense also to be defrayed by a bond issue; and \$29,195,124 is for state and federal aid roads. That is \$109,195,124 is for roads and waterways, leaving \$63,436,059, the amount appropriated for governmental expenses for the biennium. It is difficult to make any comparison of appropriations by departments because, in some cases, large amounts are appropriated to various officers and departments which have little control over the expenditure of the appropriations. The school fund which amounts to \$12,000,500 for the biennium 1919-1920 is appropriated to the auditor, but the superintendent of public instruction is the officer most closely related to its expenditure.

The department of public welfare and the University of Illinois also receive large appropriations. The appropriations to the department of public welfare for the state charitable, penal and reformatory institutions for the biennium 1919-1920 are \$19,636,213. The University of Illinois has an appropriation of \$5,000,500 for the same biennium.

The amount appropriated for the biennium 1919-1920 was nearly ten times the amount appropriated for 1873-1874. This increase was due largely to the increase in functions within the last half century. Many new functions have been assumed by the state and these functions are performed primarily by the executive department.

**Summary.** In summarizing the development of the organization of the executive department, we find that the executive department of the state of Illinois is now composed of the Governor, and six other elective constitutional state officers, practically independent of him; nine departments operating under the Civil Administrative Code; and twenty-one independent statutory boards, commissions and offices, less than half of such boards, commissions and offices being appointed by the Governor. There is also a classified civil service



consisting of more than six thousand employes, and, in addition, numerous officers and employes exempt from civil service.

The constitutional convention is confronted with the problem of framing an executive article in a new constitution broad enough to form the fundamental basis for the operation of this complex executive department.

Every passing year sees the assumption by the state of new functions, and it will be necessary to have broad constitutional provisions, not requiring frequent change, to provide for an executive department to exercise these constantly changing and increasing statutory functions.

### III. DESCRIPTION OF THE CONSTITUTIONAL AND STATUTORY FUNCTIONS OF CONSTITUTIONAL STATE OFFICERS.

---

**Constitution of 1870.** The constitution provides that each of the officers of the executive department, with the exception of the treasurer, shall hold his office for a term of four years, from the second Monday in January next after his election, and until his successor is elected and qualified. The election for Governor, lieutenant governor, secretary of state, auditor of public accounts and attorney general, is held on the Tuesday next after the first Monday of November, every four years. The next election will take place in November, 1920. The state treasurer is elected every two years. The superintendent of public instruction is elected for a term of four years at an election held midway between the general elections for officers of the executive department.

The returns of these elections are directed by the constitution to be sealed up and transmitted by the returning officers to the secretary of state, directed to the "Speaker of the House of Representatives," who, immediately after the organization of the House, before proceeding to other business, opens and publishes them in the presence of a majority of each house of the General Assembly, assembled in the hall of the house of representatives. The person having the highest number of votes for either of said offices, is declared duly elected. If two or more have an equal and the highest number of votes, the General Assembly, by joint ballot, chooses one of such persons for the office. Contested elections for any office are determined by both houses of the General Assembly, by joint ballot, in such manner as may be determined by law.

No officer of the executive department is eligible to any other office during the term for which he is elected. If the office of auditor, treasurer, secretary of state, attorney general or superintendent of public instruction becomes vacant by death, resignation or otherwise, the Governor is empowered to fill the office by appointment, and the appointee holds his office until his successor has been elected and qualified, in such manner as may be prescribed by law. The Governor and all civil officers of the state are liable to impeachment for any misdemeanor in office.

No. qualifications are prescribed for any of these officers, except the Governor and lieutenant governor. An account is required to be kept by all officers of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them severally, from all sources and for every service performed, and a semi-annual report thereof is to be made to the Governor under oath. Any officer who makes false report is guilty of perjury and may be



punished accordingly. This report must be made at least ten days preceding each regular session, and the Governor transmits such reports to the General Assembly, together with the reports of the judges of the Supreme Court, of defects in the constitution and laws. The Governor may, at any time, require information, in writing, under oath, from the officers of the executive department and all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices.

The officers of the executive department receive for their services, a salary established by law, which may not be increased or diminished during their official terms, and they may not receive to their own use, any fees, costs, perquisites of office or other compensation. All fees payable by law for any services performed by them must be paid in advance into the state treasury.

All civil officers, except members of the General Assembly and such inferior officers as may be by law exempted, are required to take an oath, which is set forth in full in the constitution, and no other oath, declaration or test may be required as a qualification. The article of the constitution which deals with the executive department defines an office and an employment as follows: "An office is a public institution created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished."

**Constitutions of 1818 and 1848.** A number of the general provisions of the earlier constitutions concerning state officers have been outlined in the history of the organization of the executive branch of state government, at the beginning of this bulletin. Among others which are of interest are the provisions concerning residence. The first restriction as to residence of state officers, occurred in the constitution of 1848 which provided that the Governor must reside at the seat of government during his term of office and the constitution of 1870 embodied the provisions that all state officers, except lieutenant governor, must reside at the seat of government during their term of office.

The constitution of 1848 contained distinctive provisions concerning the salaries of state officers. The constitution of 1818 prescribed the amounts of salaries to be paid until 1824, and after that the General Assembly had the power to fix salaries. The constitution of 1848 prescribed the amounts to be paid state officers, and in the proposed constitution of 1862 we find for the first time the present provision that they shall receive such salaries as are established by law.

The constitution of 1848 contained distinctive provisions concerning oath of office and impeachment. All civil, military, legislative, executive and judicial officers, were required to take an oath that they had not fought a duel, nor sent or accepted a challenge to fight a duel, nor been a second, nor in any way aided or assisted in a duel since the adoption of the constitution, and that they would not engage in or be connected with any duel during their continuance in office.

Possibly this oath was inserted because of the agreement between two members of the convention to fight a duel, to settle differences which arose in a bitter debate on the floor of the convention. The duel was to be held near St. Louis and was only stopped by the intervention of the police.<sup>1</sup>

The first constitution contained the same provision concerning impeachment of civil officers that we have in our constitution today, "The Governor and all civil officers of the state are liable for impeachment for any misdemeanor in office." The constitution of 1848, provided, however, that the Governor and all civil officers should be liable for impeachment, during their continuance in office and for two years thereafter.

**Statutes.** Salaries of constitutional state officers are payable quarterly out of the state treasury on the warrant of the auditor. One private secretary and one stenographer for each elective officer in the executive department and all clerks, watchmen and policemen in these offices are exempt from civil service.

### The Governor.

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**CONSTITUTION OF 1870.** The Constitution of 1870 declares that the executive department shall consist of a Governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general, and that the supreme executive power of the state shall be vested in the Governor, who shall take care that the laws be faithfully executed. The Governor and the lieutenant governor must have attained the age of thirty years and have been for five years next preceding their election, citizens of the United States and of this state.

The Governor is required by the constitution to give the legislature at the commencement of each session and at the close of his term, information by message of the condition of the state and to recommend such measures as he may deem expedient. He is also required to accompany his message with a statement of all state funds received and paid out by him, together with an estimate of the amount of money to be raised by taxation for all purposes. He may convene the General Assembly in extraordinary session, and in case of a disagreement between the two houses with respect to adjournment, he may adjourn it to such a time as he thinks proper, provided it is not beyond the first day of the next regular session. This can only be done upon the certification of the fact of disagreement by the house first moving the adjournment.

With the advice and consent of the senate the Governor may appoint all officers whose appointment or election is not otherwise provided for by law, and no such officers may be elected or appointed by the General Assembly itself. In case of a vacancy, during the

<sup>1</sup> Moses' Illinois historical and statistical, v. 2 p. 556.



recess of the senate, in any office which is not elective, the Governor is directed to make a temporary appointment until the next meeting of the senate. He is also empowered to remove any officer, whom he may appoint, for incapacity, neglect of duty or malfeasance in office, and fill the office by a temporary appointment until the next meeting of the senate. After rejection by the senate no person can be nominated again for the same office at the same session unless at the request of the senate, nor may such person after rejection be appointed to the same office during a recess of the General Assembly. The Governor is liable for impeachment for any misdemeanor in office. If the office of any of the constitutional elective offices of the executive department (except the lieutenant governor) is vacated by death, resignation or otherwise, it is the duty of the Governor to fill the office by appointment, and the appointee holds his office until his successor is elected and qualified.

In case of the death, conviction on impeachment, failure to qualify, absence from the state, or other disability of the Governor, the powers, duties, and emoluments of the office, for the residue of the term, or until the disability is removed, devolve upon the lieutenant governor. If there is no lieutenant governor, or if he is incapable of performing the duties of the office, the president of the senate acts as governor, until the vacancy is filled or the disability removed, and if the president of the senate is incapable of performing the duties of Governor, they devolve upon the speaker of the house of representatives.

Through his veto power the Governor has an important control over the legislative department of the government. Every bill, which passes the senate and the house of representatives, must, before it may become a law, be presented to the governor. If signed by him, it becomes a law. If he disapproves it, he is required to return it with his objections to the house in which it originated. If both houses, two-thirds of the members concurring, pass the bill again, it becomes a law notwithstanding the disapproval of the Governor. If he fails to return any bill submitted to him within ten days (Sundays excepted), it becomes a law, as if he had signed it, unless the General Assembly by its adjournment in the meantime, prevents its return, in which case it becomes a law unless he files it with his objections in the office of the secretary of state within ten days of such adjournment. An amendment to this section of the constitution adopted in 1884 permits the disapproval of items and sections of appropriation bills.<sup>2</sup>

When vacancies occur in either house of the General Assembly the Governor is directed to issue writs of election to fill such vacancies. When vacancies occur in the representation of any state in the United States Senate the Governor is directed by the constitution of the United States to issue writs of election to fill such vacancies, but the legislature may empower the Governor to make temporary appointments until the vacancy is filled by election.

The Governor also has some powers with respect to judicial matters. He may grant reprieves, commutations and pardons, after conviction, for all offenses, subject to the regulations prescribed by law

<sup>2</sup> *Fergus v. Russel*, 270 Ill. 304 (1915) ; *People ex rel State Board of Agriculture v. Brady*, 277 Ill. 124 (1917).

relative to the application for such pardons, reprieves and commutations. He commissions all judicial officers of the state. In case of vacancy, where the unexpired term of a judge does not exceed one year, he has the power of making an appointment to fill such vacancy. The judges of the Supreme Court are directed to report to him in writing such defects and omissions in the constitution and laws as they may find to exist, together with approved forms of bills.

Another important power of the Governor is his right to disapprove contracts for fuel, stationery and printing paper for the use of the state, contracts for printing, binding and distributing laws and journals and all other printing ordered by the General Assembly.

The Governor is the commander-in-chief of the state militia and may call out any part of it to execute the laws, suppress insurrection and repel invasion. He commissions all militia officers of the state.

The constitution of the United States provides that a person charged in any state with treason, felony, or other crime, who flees from justice and is found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

CONSTITUTIONS OF 1818 AND 1848. The wording of the first sentence of the executive article of the constitutions of 1818 and 1848 is identical. They declare that, "The executive power of the state shall be vested in a governor." The constitution of 1870, however, provides that "The *supreme* executive power of the state shall be vested in a governor who shall take care that the laws be faithfully executed" and "The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general." The qualifications for governor have been changed by each succeeding constitutional convention. Under the constitution of 1818, the Governor was required to be at least thirty years of age, a citizen of the United States thirty years, and to have resided within this state two years next preceding his election. The constitution of 1848 required that a person to be eligible to the office of Governor must have attained the age of thirty-five years, and have been a resident of this state for ten years and a citizen of the United States for fourteen years.

The veto power of the Governor was of little importance under the first constitution. A council of revision composed of the Governor and the judges of the Supreme Court was given this power. This council was empowered to pass upon all bills which passed the house of representatives and the senate. If it should appear improper to them that a bill should become a law, they were directed to return the bill, together with their objections, to the house in which the bill originated. If upon reconsideration it was approved by a majority of the members elected to both houses, it became a law over their objections. If the bill was not returned within ten days after it was presented, it became a law. The council of revision was abolished by the constitution of 1848 and the Governor was given a qualified veto power. Under the earlier constitution a bill could be passed over the objection of the Governor by the vote of a majority of the members elected, but the constitution of 1870 requires a two-thirds vote.



The constitution of 1818 gave the Governor the power to grant reprieves and pardons after conviction except in cases of impeachment. The provisions of the constitution of 1848 and of the proposed constitution of 1862 concerning pardons were identical. They excepted the crime of treason as well as impeachment and were quite detailed. A biennial report of pardons and reprieves was required to be made by the Governor to the General Assembly. The Governor had the power to suspend the execution of a sentence for treason until the case could be reported to the General Assembly at its next meeting, when the General Assembly could pass upon it. These constitutions also contained provisions similar to the present constitution, making the pardoning power of the Governor subject to such regulations as may be provided by law.

The power of the Governor of this state to fill vacancies has generally been more extensive than his power of appointment. The constitution of 1848 provided that when a vacancy occurred in the office of secretary of state, the Governor should have the power to appoint a secretary of state to serve until another was elected and qualified. It also contained the provision that the filling of all vacancies not otherwise provided for by the constitution should be made in such manner as the General Assembly should direct, provided no such officer should be elected by the General Assembly. The effect of this proviso was generally to place the power to fill vacancies in the Governor.

**STATUTORY POWERS AND DUTIES.** In case of a vacancy in the office of Governor and lieutenant governor, the officer performing the duties of the office of the Governor, or if there is no such officer, the secretary of state, is directed to issue a proclamation appointing a day for a special election to fill such vacancies, and to call a special session of the General Assembly to canvass the votes of the election, unless there is a regular session within ninety days.

One of the most effective powers of the Governor as the supreme executive authority of the state is the power of appointment of officers of the executive department. Under the Civil Administrative Code, with the advice and consent of the senate, he appoints the heads of the nine departments, of all divisions of the departments, and the members of the advisory boards. He also appoints numerous officers listed under the chapter of this bulletin entitled, "Officers and departments not created by the constitution and not under the Civil Administrative Code."

The Governor is charged by the Civil Administrative Code and various other statutes with the examination and approval of the bonds of various state officers and in many cases he may require additional security if he deems it necessary. Some statutes also impose upon him the duty of ordering prosecution in the event of the violation of any of the conditions of the bond.

The Governor has the power of appointment of commissioners to take acknowledgments or proof of execution of deeds and other instruments, and depositions, in other states. He is also empowered to appoint one director for each pawners' society organized within the state, and this director is required to report to the Governor, under

oath, any violation of the provisions of the law by the corporation, its officers or employes.

The Governor is authorized to offer a reward for the apprehension of fugitives from justice who are charged with certain crimes.

The Governor is directed to designate an "Arbor and Bird Day" annually.

The Governor is ex officio chairman of the joint legislative reference bureau, president of the board of commissioners of the state library, a member of the board of trustees of the University of Illinois, primary canvassing board, state tax levy board and the centennial building commission.

The Governor receives a salary of \$12,000 together with the use and occupancy of the executive mansion. Employes at the executive mansion are exempt from civil service.

The secretary of state is required to keep a register and record of all the official acts of the Governor. All state contracts, which are awarded according to law by the department of public works and buildings, must be awarded in the presence of the Governor and subject to his approval.

The state canvassing board must canvass the votes in the presence of the Governor and he issues certificates of election or commissions in accordance with the result of the election. He also issues proclamations of the result of the canvass of votes on constitutional amendments.

The constitution and various statutes require that every branch of the executive department shall make reports to the Governor. He may order any of the reports to be printed, bound and distributed at public expense. The Governor may not approve any voucher for services of any person employed in violation of the provisions of the civil service law of the state.

The directors of each department under the Civil Administrative Code are required to report in writing annually or before the first day of December to the Governor concerning the condition, management and financial transactions of their respective departments.

With the approval of the governor directors of departments under the Civil Administrative Code may establish and maintain branch offices at places other than the seat of government.

The department of finance is directed to prepare and submit to the Governor biennially, not later than the first day of January preceding the convening of the General Assembly, a state budget. Not later than four weeks after the organization of the General Assembly the Governor is directed to submit the state budget embracing the amounts recommend by him to be appropriated to the various departments of state government, and for all other public purposes, and the estimated revenue from taxation and other sources.

The department of public welfare is directed to investigate, when asked by the Governor, into any or all phases of the management of state institutions and to report its findings.

The Governor is empowered to change the boundaries of the penitentiary districts of the state from time to time so as to make the size of the district bear due proportion to the capacity of the prisons.



When he deems such change necessary he certifies the same to the secretary of state, who is directed to notify the proper authorities. Under the statutes governing the penitentiaries the Governor is given various duties and powers concerning the visiting of the prisons, approval of exchange of prisoners, and inquiry into abuses and discipline.

The Governor, with the advice and consent of the senate, is empowered to appoint in each county in the state, a public administrator and a public guardian. With the advice and consent of the senate, the governor appoints and commissions as notaries public as many persons resident in the county in this state for which they are appointed, as he may deem necessary.

By legislation enacted before 1870, the Governor is empowered to appoint West Chicago park commissioners and the Lincoln park commissioners, in the county of Cook.

When vacancies occur among certain elective officers designated by statute, the governor is directed to issue writs of election to the various county clerks. It is the duty of the county clerks in certain cases to notify the governor of vacancies.

It is the duty of the governor on or before October 1 of each year, to furnish the board of commissioners in cities which have elected to come under such boards, the names of all persons pardoned by him out of the penitentiary for any crime of which the party was convicted in a court of the county where said city is located.

Whenever there is in any city, town, or county, a tumult, riot or mob, or body of men, acting together by force with attempt to commit a felony, or to offer violence to persons, or property, or to break or resist the laws of the state, and this fact is made to appear to the Governor, it is his duty to order such military force as he may deem necessary to aid the civil authorities in suppressing violence and executing the law.

If any person is taken from the hands of a sheriff and lynched, it is prima facie evidence of failure on the part of the sheriff to do his duty, and upon this fact being made to appear to the governor, he is directed to declare the office of the sheriff vacant. Within ten days the sheriff may file with the Governor a petition for reinstatement. If the Governor finds that the sheriff did all in his power to protect the life of the person lynched, he may reinstate the sheriff and his decision in the matter is final.<sup>3</sup>

<sup>3</sup> See *People ex rel Davis v. Nellis*, 249 Ill. 12 (1911).

When the vacancy occurs in the office of United States Senator, the Governor is directed to make a temporary appointment to fill such vacancy until the next election of representatives in congress. Where vacancies exist among the representatives in congress he is directed to issue writs of election to fill such vacancies.

### Lieutenant Governor.

With the exception of a few minor details, the provisions of the three constitutions of the state of Illinois concerning the lieutenant governor are the same. In each constitution, the qualifications for

lieutenant governor are the same as those for Governor, and the qualifications for Governor were changed by each succeeding constitution. The lieutenant governor was given a right by the Constitutions of 1818 and 1848, when the senate was in committee of the whole, to debate and vote on all subjects, but in the Constitution of 1870 this provision is omitted.

Under the present constitution the lieutenant governor is the only officer of the executive department who is not required to reside at the seat of government during the term for which he is elected. He must be thirty years of age and a citizen of the United States, and of the state of Illinois for five years next preceding his election. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the state, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability is removed, devolve upon the lieutenant governor. He acts as president of the senate and votes only when the senate is equally divided. The senate is directed to choose a president pro tempore to preside in case of the absence or impeachment of the lieutenant governor, or when he holds the office of Governor.

The only section of the statutes which deals with the office of lieutenant governor provides that he shall receive an annual salary of \$2,500, and if the powers and duties of the office of Governor devolve upon him, he shall, during the continuance of such emergency, be entitled to the emoluments thereof.

### Secretary of State.

The Constitution of 1818 provided that the secretary of state should be appointed by the Governor with the advice and consent of the senate. In 1848 he was made elective at the same time as the Governor, for a term of four years, and these provisions were not changed by the Constitution of 1870. By this constitution it is provided that the election returns for officers of the executive department must be transmitted to the secretary of state, directed to the speaker of the house of representatives, and it is his duty to call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer has been chosen and has taken his seat. He is required to record and file the oaths of the members of the General Assembly. The constitution further provides that the great seal of state be kept by the secretary of state and used by him as directed by law.

**STATUTORY POWERS AND DUTIES.** Most of the powers and duties of the secretary of state are prescribed by statute and these statutes cover a number of unrelated subjects. He is the keeper of the executive records and of the records of the General Assembly and he is required to furnish certified copies of any laws or records on file in his office on payment of the lawful fees. He is custodian of the state buildings and grounds in Springfield. He has charge of the furniture of the General Assembly and of the state house



except as otherwise provided, and he has charge of the advertising for bids and award of fuel contracts for the use of the state at the heating and lighting plant in Springfield.

The secretary of state is also charged with the licensing of domestic corporations, the admission of foreign corporations, and he has a limited supervision over some general corporations not subject to any other state officer or board. The administration of the law regulating the sale of securities, the so-called "blue sky" law, is also given to him. He has charge of the registration and licensing of motor vehicles and the examination and licensing of chauffeurs.

The secretary of state is the chief administrative officer of the election machinery of this state. Under the primary and general election laws many duties in connection with the filing of nominating petitions, certification of candidates, notices concerning contests, submission of questions of public policy and constitutional amendments, canvass of returns of elections, and compilation of abstracts of votes, are imposed upon him.

The secretary of state is also charged with the licensing of itinerant vendors; the recording of trade marks; the issuance of instructions and forms to commissioners of deeds, appointed to serve in other states; and the issuance of certificates of magistracy to notaries public.

The superintendent of the capitol buildings and grounds and his assistant are under the control of the secretary of state and are exempt from the provisions of the civil service law. The secretary of state is ex-officio state librarian, secretary of the court of claims, chairman of the Illinois library extension commission and a member of the following boards: primary canvassing board, state canvassing board, board of voting machine commissioners, board of commissioners of the state library, and centennial building commission.

The salary of the secretary of state is \$7,500 per annum, and he is required to give bonds for \$100,000 to be approved by the Governor and two justices of the Supreme Court.

The secretary of state is the keeper of all public acts, laws and resolutions passed by the General Assembly, and he has charge of the publication and distribution of the session laws. He is also the keeper of the journals and other documents which the clerks of the respective houses of the General Assembly are required to deliver to him at the close of each session.

It is the duty of the secretary of state to keep a fair register of all the official acts of the Governor, to countersign and affix the seal of state to all commissions required by law to be issued by the Governor, and to make and keep proper indexes to all executive records in his office.

The secretary of state is authorized to award certain fuel contracts subject to the approval of the Governor. The Civil Administrative Code directs the secretary of state to provide rooms for departments existing under its provisions and practically every statute creating a new department imposes a like duty upon him.

The secretary of state is required to file his bond in the office of the auditor of public accounts.

The treasurer and the secretary of state are authorized and required to employ watchmen to guard and preserve from fire the public buildings in Springfield. These watchmen are exempt from the provisions of the civil service act.

The secretary of state and the various county clerks have numerous related functions in connection with the administration of the election laws. At the end of each month the secretary of state is required to print and mail to all county clerks, sheriffs and chiefs of police in cities having a population of 5,000 or over, a complete list of all motor vehicles registered with him, together with the names of the owners. He is required to file annually a list of all corporations and certain information concerning their standing with the recorder of deeds in each county. Such records are to be kept open for public reference.

The secretary of state is required to keep a register of all cities, towns and villages organized under the general incorporation act, and in case of change of names of cities, towns or villages, local authorities must certify the same to the secretary of state. All records of organization under the general incorporation act must be filed in his office.

### **Auditor of Public Accounts.**

The Constitution of 1818 provided for the appointment by the General Assembly of an auditor of public accounts whose duties should be regulated by law. The Constitution of 1848 made the auditor an officer elected by the people for a term of four years. The Constitution of 1870 makes no change in this provision. It further provides that "No money shall be drawn from the treasury except in pursuance of an appropriation made by law and on presentation of a warrant issued by the auditor thereon" and the auditor is required within sixty days after the adjournment of each session of the General Assembly to prepare and publish an itemized statement of all money expended at the session.

**STATUTORY POWERS AND DUTIES.** The auditor is required to keep an official seal to be used to authenticate all writings, papers, documents, and accounts required by law to be certified from his office. It is his duty to keep the accounts of the state with any state or territory, and with the United States, with all public officers, corporations, and individuals having accounts with this state, and to audit all accounts of public officers, who are to be paid out of the state treasury, of the members of the legislature, and all persons authorized to receive money out of the treasury, by virtue of any appropriation made by law particularly authorizing such account. On ascertaining the amount due any person from the treasury he is directed to issue his warrant on the treasury for the sum due, and he must keep a record of all warrants drawn by him, numbering them, in a book to be kept for this purpose. He must personally



sign all warrants for money on the treasury of the state and all other papers necessary and proper for the auditor to sign. He is required to keep a correct record of all accounts audited by him, and an account of all taxes or other money, which may be due by any person to the state, and an account of all amounts which may be paid into the state treasury.

The above provisions deal with the auditor as an administrative officer in charge of the accounting system of the entire state administration. He has also numerous functions in connection with the supervision of corporations. He has charge of the regulation of state banks, trust companies, building and loan associations, wage loan corporations, mortgage loan corporations, pawnbrokers' societies and title guarantee companies. Under a banking law enacted in 1919, which under the constitution is subject to a referendum, his powers of supervision over banks will be increased. Bank examiners, and examiners of building and loan associations in this office are exempt from civil service.

The auditor is ex-officio a member of the state canvassing board and of the tax levy board.

The auditor receives a salary of \$7,500 and is required to give bond to be approved by the Governor and two justices of the Supreme Court in the sum of \$50,000. If the Governor deems any bond filed by the auditor insufficient, he may require additional bond not exceeding \$50,000. Whenever any condition of the bond is broken, it is the duty of the Governor to order prosecution.

The auditor is directed to credit the treasurer's account with the amount of cancelled warrants returned to him monthly, by the treasurer, and give him a receipt for the same, and enter the date of cancellation of such warrants in his warrant book. He must countersign all receipts for moneys issued by the treasurer, and charge the treasurer with the amount of the receipts. No person may be employed as a clerk in the auditor's office who is at the same time employed in any capacity in the treasurer's office.

The treasurer is required to open the proposals for the deposit of state moneys, in the presence of the auditor and the director of finance. The secretary of state is directed to deposit his bond in the office of the auditor.

The auditor has the right to examine all the books, documents, memoranda, and records of every department of state government receiving money, which is required to be paid into the state treasury, in order to verify the accuracy of the accounts.

The civil service commission is directed to certify to the auditor all appointments to offices and places in the civil service and all vacancies occurring by dismissal, resignation or death. The auditor is only permitted to draw his warrant on the treasurer for the payment of the salary or compensation of any person in the classified service upon the certification of the civil service commission that the payment is in accordance with the civil service law and rules.

The county superintendents of schools are required to report the sale of township school lands to the auditor and the auditor is empowered to issue patents for such lands.

The auditor is required to keep a record of the names and boundaries of the several townships organized in counties throughout the state. In order to make up this record, the county clerks are required to forward the auditor an abstract of the report of the commissioners appointed to divide the county into towns.

The bonds of county collectors of taxes, if found to be in conformity with the law by the auditor, must be filed in his office and the fact thereof certified to the county clerk by him. Upon the settlement of the account for taxes with the state, the auditor must furnish the county collector with a duplicate certificate to that effect. The county collector is required to file one of these certificates in the office of the county clerk. Inheritance taxes are collected by the county treasurers under the supervision of the attorney general and are paid into the state treasury through the office of the state auditor. An order is issued by the auditor directing the state treasurer to receive the money.

The county clerks of the several counties in the state are required to report to the auditor a list of the swamp and overflowed lands sold in their respective counties for the year ending May first, and the auditor must enter the same in the tract books in his office.

The auditor of public accounts has been designated as the custodian of all transcripts, documents and records pertaining to the United States Land Office, formerly located at Springfield, Illinois, which were transferred to the state of Illinois, by the secretary of the interior, in accordance with an act of congress approved July 31, 1876.

### **Treasurer.**

The Constitution of 1818 provided that the state treasurer should be appointed biennially by the joint vote of both branches of the General Assembly. He was made a popularly elective officer with a term of two years by the constitution of 1848. The provisions that he should be ineligible to the office of state treasurer for two years next after the end of the term for which he was elected, was added by the Constitution of 1870, and this constitution further provided that he might be required by the Governor to give reasonable additional security, and in default of so doing his office should be declared vacant. The treasurer is the only officer of the executive department of the state that the constitution does not expressly prohibit from holding other public office during the term for which he is elected.

All taxes levied for state purposes are required by the constitution to be paid into the state treasury and no money may be drawn from the treasury except in pursuance of an appropriation made by law and on presentation of a warrant issued by the auditor thereon.



STATUTORY POWERS AND DUTIES. It is the duty of the state treasurer to receive the revenues and all other public moneys of the state, and all moneys authorized by law to be paid to him, and safely keep the same. He is required to keep an official seal to authenticate all writings, papers and documents required by law to be certified from his office.

He is required to deposit all moneys received by him on account of the state within five days after receipt in such banks as he may, according to law, designate as state depositories. All interest received on such moneys is the property of the state of Illinois and the treasurer is required to advertise for proposals for the deposit of state moneys.

The treasurer may not pay any salary or wages for services as an officer or employe in the classified service of the state unless the person is employed in accordance with the provisions of the civil service act.

He is ex-officio a member of the state canvassing board, the primary canvassing board, and the tax levy board, and ex-officio treasurer of the board of trustees of the teachers' pension and retirement fund.

The treasurer receives a salary of \$10,000 and is required to furnish a bond for \$500,000 to be approved by the Governor, and two justices of the Supreme Court. If the Governor deems the bond of the state treasurer insufficient, he may require additional bond in the penal sum not to exceed \$500,000. Whenever the condition of the bond of the treasurer is broken, it is the duty of the Governor to order prosecution.

All persons paying money into the state treasury are required to obtain an order from the auditor directing the treasurer to receive such moneys, and the treasurer may not pay out of the treasury any money except upon the warrant of the auditor. The treasurer is required to keep regular and fair accounts of all moneys received and paid out by him, stating particularly on what account each amount is received or paid out. At the close of each month, he reports to the auditor the amount of money received and paid out by him during the month and deposits with the auditor all warrants, properly cancelled, which he may have paid, and takes the auditor's receipt for the cancelled warrants. He is required to make a biennial report to the Governor. No person may be employed as clerk in the auditor's office who is employed in any capacity in the treasurer's office.

Within ten days after the receipt of the proposals for the deposit of state moneys, the treasurer is required to open them in the presence of the auditor of public accounts and the director of finance. He is empowered to make the awards himself.

With a few exceptions the fees collected by state boards, commissions, institutions, departments and offices are required to be paid into the state treasury.

With the consent of the attorney general, the treasurer is empowered to enter into agreements concerning inheritance taxes, in certain estates involving remainders or estates in expectancy, such

agreement to be in the form of a composition or settlement of taxes.

The treasurer and the secretary of state are authorized and required to employ watchmen to guard and preserve from fire the public buildings in Springfield. These watchmen are exempt from the provisions of the civil service act.

The administrative officers, boards, commissions or offices of the various schools or institutions coming under the provisions of the state institution teachers' pension and retirement fund act, are directed to transmit quarterly to the state treasurer the sums retained from teachers' salaries in accordance with the act and to make an annual statement to him within seven days after the thirtieth day of June of each year, of all moneys so retained.

County collectors of taxes are directed, upon presentation to the state treasurer of a statement from the auditor of the exact amount of taxes due to be paid into the state treasury, to pay the same to the state treasurer. In connection with the administration of the inheritance tax, the treasurer is directed to furnish each county judge with a book in which to enter inheritance tax assessments. It is the duty of the county treasurer to pay to the state treasurer on the first day of every month, all inheritance taxes collected by him.

The receipts from the sale of land belonging to aliens, where they have failed to become naturalized after the required length of time, are to be delivered by the clerk of the county court to the state treasurer.

Before constitutional prohibitions were imposed, various municipal corporations of the state had issued bonds in aid of such local improvements as the building of railroads and other public utilities. These bonds are secured by special taxes, which have accumulated in the state treasury and the treasurer is charged with the payment of the coupons on these bonds semi-annually.

The board of directors, boards of education or other governing body of the public school in each district coming under the provisions of the teachers' pension and retirement fund act are required to forward to the state treasurer within seven days after June 30, a statement of all moneys retained from teachers' salaries in accordance with the provisions of the act, together with such moneys, or a statement that no teacher in that district comes under the provisions of the act.

The state treasurer has been designated by various acts of congress, supplemented by the necessary state laws, as the custodian of certain moneys distributed by congress to the states for various purposes. These funds are:

- (1) Support of disabled soldiers and sailors (1888).
- (2) The promotion of vocational education (1919).
- (3) Federal aid roads act (1916).
- (4) Treatment and prevention of venereal diseases (1918).
- (5) For the benefit of the University of Illinois under
  - (a) An act concerning agricultural colleges, approved July 2, 1862.
  - (b) An act to apply a portion of the proceeds of the public lands, approved August 30, 1890.



- (c) An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1908, approved March 4, 1907.

### Superintendent of Public Instruction.

The Constitution of 1870 provides for the election of a superintendent of public instruction for a term of four years. This election is held midway between the elections for Governor and the principal officers of the executive department. The Constitution of 1818 contained no specific mention of education and the Constitution of 1848 had only a brief reference to it in connection with taxation. The office of state superintendent of common schools had, however, been created by statute in 1845. The secretary of state held this office ex-officio. The office of state superintendent of public instruction was created by statute in 1854 as a separate elective office, with a term of office of two years. The proposed Constitution of 1862 made the superintendent of public instruction an elective state officer but he was the only constitutional state officer not enumerated among the officers comprising the executive department. The Constitution of 1870 lengthened the term to four years and by the provision for the election at a time other than the general election for state officers indicated a recognition of the desirability of keeping the office as far as possible out of politics.

STATUTORY POWERS AND DUTIES. The Constitution of 1870 says that "The General Assembly shall provide a thorough and efficient system of free schools whereby all children of this state may receive a good common school education." In accordance with this provision many statutes have been enacted, and the superintendent of public instruction has been generally charged with the administration of these laws. He is empowered to supervise all of the common and public schools of the state, and to make rules and regulations for carrying into effect the provisions of the school law. He is empowered to examine teachers, grant and revoke certificates, and recognize those from other states. Publishers of textbooks are required to file copies of their books and price lists with the superintendent of public instruction and he issues a list of textbooks filed with him, for the use of school directors.

He is ex-officio secretary of the normal school board, executive officer of the board for vocational education, president of the board of trustees of the Illinois teachers' pension and retirement fund, a member of the board of commissioners of the state library, of the trustees of the University of Illinois, and of the farmers' institute. He is ex-officio chairman of the teachers' examining board and appoints one member for a four-year term. He appoints the other three members, county superintendents, each to serve three years, one to be appointed annually upon the recommendation of the county superintendents section of the state teachers' association at its annual meeting.



The superintendent of public instruction receives a salary of \$7,500 and is required to give bond in the penal sum of \$25,000.

The superintendent of public instruction is required to transmit to the Governor biennially a report containing various statistics concerning school attendance, administration and finance. This report is transmitted to the General Assembly at the beginning of each regular session. He has supervision over the distribution of school funds, and may require the withholding from a county superintendent of the amount due him for his compensation or due to his county, from the state school fund until the required information concerning schools has been sent to the state superintendent. Appeals may be taken to the courts from the decision of the state superintendent.

It is the duty of the superintendent of public instruction to visit such of the state institutions as are educational in character and to examine their facilities for instruction. The superintendents of these institutions are required to make reports to him on matters relating to their institutions at such times and in such form as he may prescribe.

It is his duty to confer with the state board of health, state architect, and state fire marshal, and prepare specifications for the minimum requirements for heating, ventilation, lighting, sanitation, and safety against fire, which will conserve the health and safety of the children attending the public schools.

It is the duty of the superintendent of public instruction to designate the statistics which school officers are required to report to the county superintendent, to authorize county superintendents to procure necessary assistance to conduct teachers' institutes, to require reports from county superintendents, township trustees, and authorities of townships, cities or districts maintaining schools under special charters, and advise county superintendents as to the best manner of conducting schools, constructing and furnishing school houses, and examining and procuring competent teachers. He is the legal adviser of school officers and it is his duty, upon request of any school officer, to give his opinion in writing upon any question arising under the school laws of the state.

He is given the power to determine all controversies arising under the school laws, coming to him by appeal from county superintendents. County superintendents of schools are required to mail copies of all bonds of township treasurers approved by them to the superintendent of public instruction, said copies to be filed in his office.

### **ATTORNEY GENERAL.**

The Constitution of 1818 provided for the appointment by the General Assembly, of an attorney general, whose duties should be regulated by law. In accordance with this provision, the first legislature in 1819 prescribed the duties of the attorney general and provided that he be elected by the General Assembly for a term of two years. The Constitution of 1848 contained no mention of the attorney general and the office was discontinued. By statute, in 1867, it

was again created, to be filled first by appointment by the Governor for a term of two years, and afterwards to be an elective office. Under the Constitution of 1870 the attorney general is named as one of the officers of the executive department, elected by popular vote for a term of four years. The constitution confers no express powers upon the attorney general and prescribes no express duties for him to perform. It simply provides that he shall perform such duties as may be prescribed by law.

The Supreme Court of this state, has, however, construed the constitutional provisions so as to invest the office with all the common law powers and duties of the Attorney General. In *Fergus vs. Russel*, 270 Ill., 304, 342 (1915), it says:

"By our constitution we created this office by the common law designation of Attorney General and thus impressed it with all its common law powers and duties. As the office of Attorney General is the only office at common law which is thus created by our constitution the Attorney General is the chief law officer of the state, and the only officer empowered to represent the people in any suit or proceeding in which the state is the real party in interest, except where the constitution or a constitutional statute, may provide otherwise."

STATUTORY POWERS AND DUTIES. The duties of the attorney general are:

To appear for and represent the people of the state before the Supreme Court, in all cases in which the state or the people of the state are interested.

To prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.

To enforce the proper application of funds appropriated to the public institutions of the state, prosecute breaches of trust in the administration of such funds, and when necessary, prosecute corporations for failure or refusal to make the reports required by law.

To keep in proper books, a register of all cases prosecuted or defended by him, in behalf of the state and its officers, and a record of all official opinions given by him during his term of office, and to deliver the same to his successor in office.

To file an information in the nature of a *quo warranto* against any person holding office illegally and against any corporation holding or exercising any franchise or license in violation of law.

To appear for and represent the interests of the state in all matters before the court of claims.

To institute prosecutions for the violations of the civil service laws; to appear against trust companies which administer estates in cases of violations of the law; to prosecute pawnbrokers societies carrying on business illegally; and to institute proceedings against foreign and domestic corporations in certain cases. (There are a large number of other statutes which provide specifically for action by the attorney general for their enforcement.)

To examine the title of land in the improvement of which public money is proposed to be spent. His approval of the title of the land is necessary before any money can be legally expended in such improvements.



To exercise general supervision over the assessment and collection of the inheritance tax, with authority to apply to the county court for the appointment of appraisers, and to appeal from any appraisement and assessment.

The attorney general is *ex-officio* a member of the state canvassing board. Regular and special assistants, law clerks, special investigators and special attorneys in the attorney general's office are exempt from civil service.

The attorney general receives a salary of \$10,000 per annum. Before entering on the duties of his office, he is commissioned by the Governor, and must execute a bond for \$10,000 for the faithful discharge of the duties of his office. The attorney general must give a bond approved by the Governor and whenever the Governor shall deem any bond filed by the attorney general insufficient, he may require additional bond of not exceeding \$10,000.

It is the duty of the attorney general to institute and prosecute all proceedings in favor of or for the use of the state, which may be necessary in the execution of the duties of any state officer; to consult with and advise the Governor and other state officers, and give when requested written opinions upon all legal or constitutional questions relating to the duties of such officers; to give written opinions, when requested by either branch of the General Assembly or any of its committees, upon any legal or constitutional question.

The by-laws of building and loan associations must be submitted to him and approved by him before the auditor can issue a certificate of organization. The attorney general must certify the declaration of incorporators of life insurance companies as legal and sufficient before the insurance superintendent can give the company a permit to do business in this state. A number of other statutes make his approval necessary in certain cases.

The department of finance is required to report to the attorney general for such action as the attorney general may deem necessary, all facts showing illegal expenditures of public money or misappropriation of the public property.

The approval of the attorney general is necessary to all agreements made by the state treasurer for a composition or settlement of inheritance taxes in estates in expectancy or estates involving remainders.

It is the duty of the attorney general to consult with and advise the several state's attorneys in matters relating to the duties of their office; and, when in his judgment, the interest of the people of the state require it, he may attend the trial of any party accused of crime and assist in the prosecution. It is the duty of the state's attorney whenever it may be necessary, and in cases of appeal or writ of error from his county to the Supreme Court, which it is the duty of the attorney general to attend, to furnish the attorney general with a brief, showing the nature of the case and the questions involved, a reasonable time before the trial of such appeal or writ of error.

In cases of appeals to the county court concerning appraisements in inheritance tax matters, it is the duty of the county clerk to notify the attorney general and later to send him a certified copy of the judg-



ment in the cause. It is the duty of the state's attorneys to render assistance to the attorney general in the institution and prosecution of suits concerning inheritance taxes, when requested to do so. The county treasurer is required to send the attorney general a quarterly statement of all inheritance taxes due and unpaid.

#### IV. DESCRIPTION OF THE FUNCTIONS OF DEPARTMENTS UNDER THE CIVIL ADMINISTRATIVE CODE.

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**General.** The Civil Administrative Code was enacted by the General Assembly in 1917 and went into effect July first of that year. It reorganized and consolidated fifty or more functions and departments, previously existing independently of each other, into nine departments, with a director appointed by the governor with the advice and consent of the senate for a term of four years, at the head of each department. Several administrative and unpaid advisory boards were created in the various departments.

It is the duty of the advisory boards to consider and study the entire field of their work; to advise the executive officers of their departments upon the request of such officers; to recommend on their own initiative, policies and practices, which recommendations the executive officers of the department are directed to duly consider, and give advice or make recommendations to the Governor and the General Assembly when so requested, or on their own initiative. The advisory boards have the power to investigate the conduct of the work of the departments with which they are associated. Such boards must hold meetings not less frequently than quarterly, and the director of the department and the Governor may be present and be heard upon any matter coming before the board. Members of such boards receive no compensation.

One private secretary for each director is exempt from the classified civil service of the state. The salaries of the directors vary from \$5,000 to \$7,000 per annum and are payable monthly. Each officer, whose office is created by the code is required to take and subscribe the constitutional oath of office, which oath must be filed in the office of the secretary of state. Each executive and administrative officer, whose office is created by the code, is required to give a bond with security to be approved by the Governor, in such penal sum as the Governor may fix, not less than \$10,000, which bond is to be filed in the office of the secretary of state. Annually, on or before the first day of December, and at such other times as the Governor may require, the directors of the departments are required to report to the Governor in writing concerning the condition, management and financial transactions of their respective departments. In addition to such reports, each director of a department is required to make the semi-annual and biennial reports required by the constitution.

The directors of departments are directed to devise a practical and working basis for co-operation and co-ordination of work, eliminating duplication and overlapping of functions. Whenever power is vested by the code in a department to inspect, examine, secure data or



information or procure assistance from another department, a duty is imposed upon the department upon which the demand is made, to make such power effective.

Under the power given to the director of each department to make rules and regulations for the distribution and performance of its business, each department has been organized into various "divisions." The names of these divisions may be ascertained by consulting the appropriation acts and they are also listed later in this chapter under the discussion of the functions of each department. These divisions follow quite closely the officers and board expressly designated in the statute.

The code provides for an assistant director in each department and the following outline shows the other officers, boards and departments expressly designated and provided for in the organization prescribed by the statute.

Department of Finance:

- Administrative auditor.
- Superintendent of budget.
- Superintendent of department reports.
- Tax commission.

Department of Agriculture:

- General manager of the state fair.
- Superintendent of foods and dairies.
- Superintendent of animal industry.
- Superintendent of plant industry.
- Chief veterinarian.
- Chief game and fish warden.
- Food standard commission.
- Board of agricultural advisers.
- Board of state fair advisers.

Department of Labor:

- Chief factory inspector.
- Superintendent of free employment offices.
- Industrial commission.
- Board of Illinois free employment office advisers.
- Board of local Illinois free employment office advisers for each free employment office.

Department of Mines and Minerals:

- Mining board.
- Miners' examining board.

Department of Public Works and Buildings:

- Superintendent of highways.
- Chief highway engineer.
- Supervising architect.
- Supervising engineer.
- Superintendent of waterways.
- Superintendent of printing.
- Superintendent of purchases and supplies.
- Superintendent of parks.
- Board of art advisers.

Board of water resource advisers.  
 Board of highway advisers.  
 Board of parks and buildings advisers.

Department of Public Welfare:

Alienist.  
 Criminologist.  
 Fiscal supervisor.  
 Supervisor of charities.  
 Superintendent of prisons.  
 Superintendent of pardons and paroles.  
 Board of public welfare commissioners.

Department of Public Health:

Superintendent of lodging house inspection.  
 Board of public health advisers.

Department of Trade and Commerce:

Superintendent of insurance.  
 Fire marshal.  
 Superintendent of standards.  
 Chief grain inspector.  
 Public utilities commission.

Department of Registration and Education:

Superintendent of registration.  
 Normal school board.  
 Board of natural resources and conservation advisers.  
 Board of state museum advisers.  
 Immigrants commission.

All of these officers, boards and commissions are appointed by the governor with the advice and consent of the senate. The miners' examining board, the industrial commission, the public utilities commission, the normal school board and the tax commission are included in this organization, but these boards and commissions perform their duties without any direction, supervision or control, by the directors of their respective departments.

**Department of Finance.** The function of the department of finance is to provide a centralized control of expenditures of all departments responsible to the Governor, and to prepare a state budget. It has the power to prescribe a uniform system of bookkeeping, accounting and reporting for the several departments under the Civil Administrative Code, to examine into the accuracy and legality of their accounts and expenditures, and to examine the accounts of every private corporation, institution, association or board receiving appropriations from the General Assembly. It also has power to prescribe uniform rules concerning the purchase of supplies. It is required to report to the attorney general for such action as he may deem necessary, all facts showing illegal expenditures of public money or misappropriation of public property. No voucher, bill or claim, of any department under the Civil Administrative Code may be allowed without its ap-



proval and certificate. It examines and approves all vouchers, bills and claims of the several departments and such as are by law made subject to the approval of the Governor and referred to it by the Governor. It may publish, from time to time, bulletins of the work of government. It may investigate duplication of work of the departments, and their efficiency, and formulate plans for their better co-ordination.

For the preparation of the state budget, the director of finance, not later than September 15 of the year preceding the convening of the General Assembly, distributes to all departments of the state government, including the judicial department, the University of Illinois and the elective officers of the executive department, the proper blanks necessary for the preparation of the budget estimates. Not later than the first day of November each department must return these blanks showing its estimates of receipts and expenditures for the next biennium. Such statement must be accompanied by a statement in writing giving facts and explanations of reasons for each item of expenditure requested. The director of finance may make further inquiries concerning any item, and he may approve, disapprove, or alter the estimates. On or before the first day of January preceding the convening of the General Assembly, he submits to the Governor in writing the state budget, showing his estimates of revenues and appropriations for the next biennium.

In 1919 a tax commission was created in the department of finance composed of three members, appointed by the Governor. Their term of office is six years. The director of finance is the secretary and executive officer of the tax commission in its clerical and administrative functions, but the tax commission performs its duties in the assessment of property for taxation without any control by the director of finance. In connection with its duties concerning the assessment of property for taxation, this commission has direction and supervision of "local assessment officers," which term includes township assessors, boards of assessors, the county treasurer and boards of review.

The code also provides for an administrative auditor, a superintendent of department reports and a superintendent of the budget in this department.

**Department of Agriculture.** The function of the department of agriculture is to encourage and promote, in every practicable manner, the interest of agriculture, including horticulture, the live stock industry, dairying, cheese-making, poultry, beekeeping, forestry, fishing, the production of wool, and all other allied industries. The department of agriculture exercises the rights, powers and duties previously vested by law in the board of live stock commissioners (excepting under the act regulating the practice of veterinary medicine and surgery), the state veterinarian, the stallion registration board, state inspector of apiaries, game and fish commission, food commissioner, food standard commission, and the state entomologist. This department executes and administers the act to prevent fraud in the manufacture and sale of commercial fertilizers. It collects and publishes statistics

relating to crop production and marketing of agricultural products. It produces and manufactures biological products to be distributed to live stock producers at actual cost, and it is its duty to inquire into the causes of contagious, infectious and communicable diseases among domestic animals and means for prevention and cure. It is the duty of the department of agriculture to encourage the planting of trees and shrubs and the improvement of farm homes generally. It is also its duty to see that live stock at stock yards, breweries, distilleries and other like places, where live stock is confined, housed or fed, is properly cared for.

In this department, there is a board of agricultural advisers composed of fifteen persons; a board of state fair advisers composed of nine persons, not more than three of whom may be appointed from any one county; and a food standard commission. The superintendent of foods and dairies and two officers, designated as food standard officers, constitute the food standard commission. The code provides for a general manager of the state fair, a superintendent of foods and dairies, a superintendent of animal industry, a chief veterinarian and a chief game and fish warden in this department. For administrative purposes the following "divisions" have been organized:

General office.

Game and fish division.

Animal industry and veterinary science division.

Apiary inspection division.

Plant industry division.

Foods and dairies division.

Dairy extension division.

State fair division.

The department of agriculture is charged with the administration of the laws concerning the adulteration and inspection of food products, the sale of paints and compounds, the prevention of the spread of contagious diseases among domestic animals, and the uniform cold storage act, the pure seed act and the plant inspection act. It is also charged with the licensing of commission merchants, egg breaking establishments, egg dealers and ice cream manufacturers.

All regularly licensed veterinary surgeons employed by the department of agriculture are exempt from the classified civil service of the state.

The director of agriculture is *ex-officio* a member of the board for vocational education, the farmers' institute, and the board of trustees of the University of Illinois.

County assessors and deputy assessors are required to collect and tabulate such agricultural information as may be required by the department of agriculture, at the time provided by law for the assessment of property. Commissioners of Canada thistles are required to send a report to the director of agriculture, who must collect and report the same to the Governor on or before December first of each year. The department of agriculture has general supervision of all measures adopted for the extermination of Canada thistles.



The department of agriculture is charged with the administration of certain funds which the General Assembly appropriates to encourage the holding of fairs by counties or agricultural societies, and the appropriations made by the state to pay its share (which may not exceed \$100 per month each) of the salary of county agricultural advisers.

The department of agriculture is directed to co-operate with the United States Bureau of Animal Industry in the extirpation of pleuropneumonia and contagious diseases among domestic animals.

**Department of Labor.** The department of labor is charged with the exercise of the powers and duties previously vested by law in the following offices, departments, boards and commissions: the commissioners of labor, the free employment agencies, the state factory inspector, the state board of arbitration and conciliation, and the industrial board. Its function is to foster, promote and develop the welfare of wage-earners through the improvement of working conditions, the advancement of opportunities for profitable employment, collection of statistical information, and the publication of reports relating to all departments of labor, and reports concerning the promotion of the material, social, intellectual and moral prosperity of laboring men and women. The workmen's compensation act and the arbitration and conciliation act are administered by the industrial commission without any direction, supervision or control by the director of labor.

The code provides for the appointment of a board of Illinois free employment office advisers, composed of five persons. It also provides for a board of local free employment office advisers, for each free employment office, composed of five persons on each local board. Employment offices are located in Chicago, Rockford, Joliet, Rock Island, Peoria, Springfield, East St. Louis, Bloomington, Decatur, Danville and Aurora.

The code also provides for the appointment of a chief factory inspector, a superintendent of free employment offices, a chief inspector of private employment agencies and an industrial commission, composed of five officers designated as industrial officers and corresponding divisions have been organized in this department.

Among the more important laws enforced by this department are: the child labor act, the act regulating the hours of labor for women, the act for the licensing of private employment agencies, occupational diseases act, and the health, safety and comfort of employes act.

It is the duty of the department of labor to obtain from the department of public welfare ninety days before the discharge of an inmate from any of the penal or reformatory institutions of the state, such information as may aid in obtaining employment for such inmate, the employment to be available at the time of discharge.

The director of the department of labor is *ex-officio* a member of the board for vocational education.

**Department of Mines and Minerals.** The function of the department of mines and minerals is to promote the technical efficiency of all persons working in and about the mines of the state and to assist them better to overcome the difficulties of mining. The department exercises the rights, powers and duties previously vested by law in the state mining board, the state mine inspectors, the miners' examining commission, and the mine fire fighting and rescue station commission. It acquires and diffuses information concerning the nature, causes, and prevention of mine accidents, and the improvement of methods, equipment and conditions of mines, with special reference to health and safety, and the conservation of mineral resources. It makes inquiries into the economic condition affecting the mining, quarrying, metallurgical, clay, oil and other mineral industries. To further these purposes, it provides bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, and meetings for the readings and discussion of papers, and to that end co-operates with the University of Illinois.

The director of mines and minerals and four mine officers, appointed by the Governor, constitute the mining board. It is the duty of this board to hold such meetings as may be necessary for the discharge of its duties, and to conduct examinations and pass upon the practical and technical qualifications and personal fitness of all persons employed as mine inspectors, mine managers, mine examiners, and hoisting engineers. The mining board is required to prescribe uniform rules, conditions, and regulations for these examinations, and to report to the director of mines and minerals the names of persons qualified to act as inspectors of mines and of those authorized to receive certificates of competency as mine managers, mine examiners, and hoisting engineers. It supervises, controls, and directs the state mine inspection service and has the power to remove any inspector of mines, or to cancel the certificate of any mine examiner, mine manager or hoisting engineer, upon investigation of charges.

The miners' examining board exercises all rights, powers and duties exercised by the former miners' examining board under an act concerning the safety of persons employed in coal mines, which provides for the examination of all persons seeking employment in coal mines. It administers this act, in its own name, without any direction, supervision or control by the director of mines and minerals, or by the mining board.

Under the department of mines and minerals the following divisions have been organized:

General office.

Inspection.

Miners' examination.

Mine rescue and first aid.

Economic investigation.

This department is charged with the collection of statistics for, and the tabulation and printing of, the annual coal report. The state is by statute divided into twelve districts for inspection purposes, and one inspector is assigned to each district. There are six mine rescue stations in the state under the control of this department.



Upon the written request of the state inspector of mines for the district in which any county is located, the board of supervisors or commissioners, as the case may be, is required to appoint a county inspector of mines to act as assistant to the state inspector of mines and work under his supervision.

**Department of Public Works and Buildings.** The department of public works and buildings has the power to exercise all the rights, powers and duties previously vested by law in the state highway department, the canal commissioners, the rivers and lakes commission, the Illinois waterway commission, the Illinois park commission, Fort Massac trustees, Lincoln homestead trustees, board of commissioners of Lincoln monument grounds, and the superintendent of printing. It has extensive powers particularly in relation to the departments under the Civil Administrative Code. It is empowered to make contracts for and superintend the telegraph and telephone service of these departments, to purchase and supply all fuel, light, water, and other like office and building services, all furniture, general office equipment and general office supplies (except those distributed through the office of the secretary of state) for the several departments under the code; all clothing, instruments and apparatus, subsistence and provisions for the charitable, penal and reformatory institutions; and all necessary tools, machinery, supplies and materials, to be used by the state in the construction of state highways. It is further empowered to prepare general plans, preliminary sketches, and estimates for public buildings to be erected by any department, plans for the development of grounds and buildings under the control of any department, and plans for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state. It has general supervision over the erection and construction of public buildings erected for any department, and may make contracts for and supervise the construction and repair of buildings under the control of any department. It has the power to erect, supervise, and maintain all public buildings and memorials erected by the state except where other supervision and maintenance is provided for by law. It has power to lease storerooms and office space in buildings for the use of the several departments under the Civil Administrative Code and has general supervision and care of these storerooms and offices. It may also lease unproductive and unused lands or other property under the control of any department.

The code expressly designates and provides for the appointment of the following administrative officers in the department of public works and buildings:

Superintendent of highways, chief highway engineer, supervising architect, supervising engineer, superintendent of waterways, superintendent of printing, superintendent of purchases and supplies, and superintendent of parks.

In order to aid in the administration of its various powers, the following divisions have been organized in this department:

Highways division.

Architecture division.

Engineering division.

Waterways division.

Printing division.

Purchases and supplies division.

Parks division.

Four advisory and non-executive boards in the department of public works and buildings are created by the code. They are the board of art advisers, the board of water resource advisers, the board of highway advisers, and the board of parks and buildings advisers. It is the function of the board of art advisers, which is composed of eight persons, to advise relative to the artistic character of state buildings, works and monuments, and any work of a permanent character intended for decoration or commemoration. The board of water resource advisers, composed of five persons, advises relative to riparian rights of the state, and the conservation, use and development of water resources. The board of highway advisers, composed of five persons, advises relative to the construction, improvement and maintenance of state highways. The board of parks and buildings advisers, composed of five persons, advises relative to the construction, improvement and maintenance of state parks, buildings and monuments.

The director of public works is authorized, with the consent in writing of the Governor, to acquire by private purchase or by condemnation under the eminent domain act, the necessary lands for the public grounds and buildings for the departments under the code. All moneys received by him from rents, sales or leases of property or from any other source in connection with the management of the Illinois and Michigan Canal must be paid into the state treasury and placed by the state treasurer in a special fund to be known as "The Illinois and Michigan Canal Fund."

Two large bond issues have recently been authorized in this state—\$60,000,000 for the construction of state aid roads, and \$20,000,000 for the construction of a waterway between Lockport and Utica. This department is charged with the administration of both of these funds.

The duties of this department include the general supervision of Ft. Massac Park, Ft. Chartres Park, Starved Rock State Park, the Lincoln Monument, the Lincoln Homestead and the Douglas Monument Park. The largest state park is at Starved Rock and it contains over 1,000 acres. The General Assembly in 1919 authorized this department to acquire Old Salem State Park, and to construct monuments to Governors Palmer, Coles and Yates. With the advice of the centennial building commission the department has supervision of the construction of the new centennial memorial building in Springfield.

An important law in relation to state contracts was enacted in 1915. Under it the department of public works and buildings has an effective supervision over state printing.

The state highway division exercises some control over the choice of county superintendents of highways in this state. The county board submits to it a list of from three to five persons, and the highway commission determines by a competitive examination the person or persons best fitted for the position and certifies the names to the county board, which then makes the appointment. If no qualified person appears



upon the first list, the county board is required to submit a second list and if no one from it is qualified, the board may employ a non-resident of the county who has passed a satisfactory examination. The county superintendent of highways performs various duties that are subject to the rules and regulations of the state highway commission. Various duties are imposed upon the state highway division by the federal aid road act, in connection with the allotment of federal funds to the state. The state highway division must submit project statements to the secretary of agriculture of the United States and if approved by him, and all other conditions have been satisfied, the state may receive the benefit of the act.

**Department of Public Welfare.** The department of public welfare has the power to exercise all the rights, powers and duties previously vested by law in the following boards, commissions, officers, institutions, and offices, their assistants, other officers and employes: the board of administration, the state deportation agent, the state agent for the visitation of children, Illinois state penitentiary at Joliet, southern Illinois penitentiary, Illinois state reformatory, board of prison industries, board of classification, and the board of pardons.

A board of public welfare commissioners, composed of five persons, is included in the organization of this department, whose function it is to investigate the condition and management of the whole system of charitable, penal and reformatory institutions of the state, to make special investigations when directed to do so by the Governor, to inquire into the equipment and management of all institutions and organizations coming under the supervision and inspection of the department of public welfare, and to collect and publish annually statistics relating to insanity and crime.

The Civil Administrative Code creates the following officers in the department of public welfare: Alienist, criminologist, fiscal supervisor, superintendent of charities, superintendent of prisons, superintendent of pardons and paroles. The alienist is in charge of the state psychopathic institute in Kankakee and the criminologist is in charge of the juvenile psychopathic institute in Chicago. The department has organized a division of visitation of adult blind and a division of visitation of children. It has also appointed a superintendent of social service and a superintendent of occupational therapy. In addition to the two psychopathic institutes, there are twenty-three state institutions under the control of this department, namely:

- Elgin State Hospital, Elgin, (insane).
- Kankakee State Hospital, Kankakee, (insane).
- Jacksonville State Hospital, Jacksonville, (insane).
- Anna State Hospital, Anna, (insane).
- Watertown State Hospital, Watertown, (insane).
- Peoria State Hospital, Peoria, (insane).
- Chester State Hospital, Chester, (insane).
- Chicago State Hospital, Dunning, (insane).
- Alton State Hospital, Alton, (insane).
- Lincoln State School and Colony, Lincoln, (feeble-minded).

Dixon State Colony, Dixon, (epileptic).  
 Illinois School for the Deaf, Jacksonville.  
 Illinois School for the Blind, Jacksonville.  
 Illinois Industrial Home for the Blind, Chicago.  
 Illinois Soldiers' and Sailors' Home, Quincy.  
 Soldiers' Widows' Home of Illinois, Wilmington.  
 Illinois Soldiers' Orphans' Home, Normal.  
 Illinois Charitable Eye and Ear Infirmary, Chicago.  
 St. Charles School for Boys, St. Charles.  
 State Training School for Girls, Geneva.  
 Illinois State Penitentiary, Joliet.  
 Southern Illinois Penitentiary, Menard.  
 Illinois State Reformatory, Pontiac.

The General Assembly has provided for the construction of a surgical institute for children, a state farm for first offenders and a state sanitarium for women. The department of public welfare is charged with the licensing, inspection and regulation of maternity homes and boarding homes for children.

Superintendents, wardens and chaplains of the state charitable, penal, and correctional institutions are exempt from civil service.

The superintendent of public instruction is charged with the duty of visiting certain of these institutions and inquiring into their educational facilities. The officers of these institutions are required to make reports to him concerning educational matters. The administrative officers of the various institutions coming under the state institution teachers' pension and retirement fund are required to transmit quarterly to the state treasurer the sums retained from teachers' salaries in accordance with the provisions of the act and to make an annual statement to him of all money so retained.

The county clerk of each county is required to transmit the reports of the overseers of the poor to the department of public welfare.

**Department of Public Health.** The department of public health exercises all the rights, powers and duties previously vested by law in the state board of health, its secretary and executive officer, other officers and employes, except those vested under the acts regulating the practice of medicine and embalming. It makes examinations into nuisances and questions affecting the security of life and health in any locality of the state, investigates and inquires into the causes of disease, especially epidemics, and causes of mortality, and makes sanitary, sewerage, health, and other inspections for the charitable, penal, and reformatory institutions, and the normal schools. It acts in an advisory capacity relative to public water supplies, water purification works, sewerage systems, and sewerage treatment works, and may make and enforce rules and regulations concerning nuisances growing out of their operation. It maintains laboratories for the examination of milk, water, sewage, wastes, and other substances, and to make necessary diagnosis of diseases. It purchases and distributes free of charge to citizens of the state, various sera, vaccines, and prophylactics, of recognized efficiency in the prevention and treatment of communicable dis-



eases. It collects and preserves information relative to mortality, morbidity, disease and health. It publishes and distributes reports and bulletins concerning the prevention of disease, and the health and sanitary conditions of the state.

The department of public health has the power to inspect from time to time all hospitals, sanatoria, and other institutions, conducted by county, city, village or township authorities, and report their sanitary needs to the official authority having jurisdiction over them. It is required to keep informed of the work of local health officers and agencies throughout the state, and to supervise, aid, direct, and assist them in the administration of the health laws.

The code provides for a superintendent of lodging house inspection and a board of public health advisers, composed of five persons. The following divisions have been organized in the department of public health:

Executive division.

Division of communicable diseases.

Division of tuberculosis.

Division of sanitation.

Division of vital statistics.

Division of child hygiene and public health nursing.

Division of surveys and rural hygiene.

Division of diagnostic laboratories.

Division of hotel and lodging house inspection.

Division of public health instruction.

Division of social hygiene.

Division of biological and research laboratories.

Under the occupational diseases act the department of public health is required to furnish blanks to physicians for examinations of employes for vocational and occupational diseases and to transmit such reports to the division of factory inspection of the department of labor.

When the local authorities neglect or refuse to enforce rules and regulations of the department of public health promptly and efficiently in the suppression of contagious or infectious diseases, the department may enforce such measures, and all necessary expenses so incurred must be paid by the city or village for which the service is rendered. It is the duty of the state's attorney in each county to prosecute all persons in the county violating or refusing to obey the rules and regulations of the department of public health. Prosecutions may be instituted by the department and all fines or judgments collected or received must be turned over to the state treasurer.

An act passed in 1915 concerning the registration of births and deaths makes the director of public health superintendent of such registration, and vests the administration of the law in the department of public health. The clerks of cities, villages, and incorporated towns are made the local registrars of vital statistics. Certificates of births and deaths registered by them must contain at least the items of the standard certificate approved and adopted by the United States Bureau of the Census. In cases where death occurs without medical attendance the coroner is required to furnish such information as may be required by the department of public health in order to classify the cause

of the death. All physicians, midwives, undertakers and sextons, are required to register once each year with the local registrar and he is directed to send a list of those registered with him to the department of public health within thirty days after the end of the calendar year. Superintendents of hospitals, almshouses, and other institutions treating persons for disease, are required to give such information concerning inmates as may be prescribed by this department.

The department of public health is required to compile and publish an annual report of births and deaths with such matter as will serve to promote public health and the general welfare of the citizens of the state. At the end of each calendar year it certifies to the county clerk of each county the number of births, stillbirths, and deaths properly registered in the county, with the names of the persons entitled to the prescribed fees for registration work, and the amount due each at the rate fixed in the act. The county clerk is directed to issue his warrant on the county treasurer for such fees, and the county treasurer to pay the same upon presentation. It is made the duty of all boards of county commissioners or boards of supervisors to appropriate such amounts as may be necessary to carry out this act. The local registrars are charged with the enforcement of this act under the direction and supervision of the department of public health. This department has the power to investigate cases of irregularity or violations of the law. When the department deems it necessary, it has the power to report cases to the state's attorney who is directed to initiate proceedings for the alleged violation.

Under an act passed in 1917 authorizing the organization of public health districts and the maintenance of a public health department by such districts, it is made the duty of the department of public health to prepare a list of eligibles for appointment as public health officers. This list is selected by open, competitive examination, of which notice must be given in the "official newspaper" selected by the department of public-works and buildings. It is the duty of the district public health officers to enforce, and observe the rules, regulations, and orders of the department of public health and all state laws concerning public health.

Under an act passed in 1905, it is the duty of the department of public health to appoint one agent in the county seat of each county, to sell certified diphtheria anti-toxin to persons able to purchase it. Others are to be supplied with it at the expense of the county upon an order from the overseer of the poor.

Boards of examiners of plumbers in cities of 10,000 or more are directed to prescribe rules and regulations for materials, constructions, alterations, and inspection of all plumbing and sewerage with the advice of the department of public health.

**Department of Trade and Commerce.** The department of trade and commerce is given power by the terms of the law to exercise through the public utilities commission all the rights, powers and duties vested by law in the state public utilities commission, its officers and employes. It also exercises all the rights, powers, and duties vested



by law in the insurance superintendent, the grain inspection service, the inspectors of automatic couplers and power brakes on railroad locomotives, and the state fire marshal, their assistants, officers and employes. It is charged with the execution of laws relating to weights and measures, standards of quantity or quality for commodities, and the safety and purity of illuminating oils and gasolines.

The code creates the following officers in the department of trade and commerce: Superintendent of insurance, fire marshal, superintendent of standards, chief grain inspector, the public utilities commission, which consists of five officers, designated public utility commissioners, and the secretary of the public utilities commission. The public utilities commission exercises all rights, powers and duties vested by law in it without any direction, supervision or control by the director of trade and commerce.

For convenience of administration, the director has designated the various activities of the department of trade and commerce as follows:

General office.

Division of insurance.

Division of grain inspection at Chicago.

Division of grain inspection at East St. Louis.

Division of fire prevention.

Division of public utilities.

Division of standards.

Division of small loans.

This department is charged with the enforcement of the insurance laws of the state, the reporting of violation of insurance and fire prevention laws to the attorney general for prosecution, the licensing of insurance agents, and the collection of taxes and fees imposed upon insurance corporations.

The federal government, in order to make its supervision over grain inspection effective, has adopted the policy of licensing grain inspectors employed by the state, and the state public utilities commission has adopted the federal standards for wheat and corn. Actuaries and examiners of insurance companies in this department are exempt from civil service.

The director of trade and commerce is ex-officio a member of the board for vocational education. In the administration of the laws concerning weights and measures the department of trade and commerce is required to submit the state standards of weights and measures to the national bureau of standards for certification at least once in ten years. The enforcement of the standards is left to the county officials, the county clerk being ex-officio county sealer. The department is also charged with the licensing of small loan brokers. Highway commissioners are required to erect and maintain such signs as the public utilities commissioners may prescribe at extra-hazardous grade crossings.

**Department of Registration and Education.** The department of registration and education has power to exercise the rights, powers and duties previously vested by law in the board of education of the state of Illinois, the boards of trustees of the normal schools at Carbondale, DeKalb, Charleston and Macomb; the board of veterinary examiners and the state board of live stock commissioners, relating to the practice of veterinary medicine and surgery; the boards of examiners of horseshoers, architects, structural engineers, dentists, nurses and barbers; the state board of health, relative to the practice of medicine, midwifery and embalming; the state board of pharmacy, and the state board of optometry.

It is also the function of the department of registration and education to investigate the natural resources of the state, to prepare plans for the conservation and development of such resources, and to that end cooperate with other departments of the state, other states, and the United States. The department is empowered to conduct a natural history survey of the state, to investigate the entomology of the state, to study the geological formation of the state with reference to its resources of coal, ores, clays, building stones, cement, gas, mineral and artesian water, and other products, to collect facts and data concerning the water resources of the state; to determine standards of purity of drinking water for the various sections of the state; and to make analysis of samples of water from municipal or private sources.

The department of registration and education is empowered to publish from time to time, reports covering the entire field of botany and zoology of the state; articles on injurious and beneficial insects of the state; topographical, geological and other maps to illustrate the resources of the state; and the results of its investigations of the waters of the state.

The department is also empowered to distribute to the various educational institutions of the state, specimens, samples and materials collected by it after they have served the purposes of the department, and to supply such institutions with natural history specimens. It is directed to maintain a state museum, and to collect and preserve objects of scientific and artistic value. It is its duty to investigate, to instruct the people by lecture, demonstration or bulletins concerning, and to conduct experiments with respect to methods of preserving and protecting their property and health against injuries by insects. The department is directed to cooperate with the United States geological survey in the preparation and completion of a contour topographical survey and map.

The management of the normal schools is vested in a normal school board, composed of nine officers, together with the director of registration and education, who is ex-officio chairman of the board, and the superintendent of public instruction who is ex-officio secretary. This board acts independently of the supervision, direction or control of the director or any other officer of the department of registration and education. It is empowered to examine into the conditions, management and administration of the state normal schools and to make rules, regulations and by-laws for the management and government of these schools. It is its duty to visit and inspect each normal



school at least once annually. It has the power to employ, and for good cause, remove, the presidents of the state normal schools, and all necessary professors, teachers, instructors, and employes, and fix their salaries; to prescribe the course of study to be followed, and the textbooks and apparatus to be used, and to issue diplomas and confer degrees. It succeeds to and administers all trusts and trust property belonging to or pertaining to any of the state normal schools.

A board of natural resources and conservation composed of seven persons, is created by the code of this department. This board, acting through five or more sub-committees each of which is composed of the director of registration and education, the president of the University of Illinois or his representative, and an expert adviser specially qualified in each of the fields of investigation, is directed to consider and decide all matters pertaining to natural history, geology, water and water resources, forestry and allied research, investigational, and scientific work. This board has the power to select and appoint without reference to the state civil service law, members of the scientific staff, prosecuting such work. It is directed to cooperate with the University of Illinois in the use of scientific staff prosecuting such research, investigational and scientific work useful in the prosecution of the work of any department.

A board of state museum advisers is also provided for in this department who advise the director of registration and education in all matters pertaining to maintenance, extension and usefulness of the state museum.

An immigrants commission, composed of five persons, one of whom is the director of registration and education, was added to this department in 1919. It is empowered to make a survey of the immigrant, alien born and foreign speaking people of the state, of their distribution, conditions of employment, and standards of housing and living; to examine into their economic, financial and legal customs, their provisions for insurance and other prudential arrangements, their social organization and their educational needs. It is directed to cooperate with state and local officials, and with immigrant or related authorities of other states and the United States.

The code also provides for a superintendent of registration and two other advisory and non-executive boards, the board of natural resources and conservation advisers consisting of seven persons, and the board of state museum advisers, consisting of five persons.

For purposes of administration the director has organized the department as follows:

State museum—

Board of state museum advisers.

Scientific surveys—

Board of natural resources and conservation advisers.

Natural history survey.

Water survey.

Geological survey.

Entomological survey.

Normal schools—

Normal school board.

Illinois state normal university, Normal.

Southern Illinois state normal university, Carbondale.

Northern Illinois state normal school, DeKalb.

Eastern Illinois state normal school, Charleston.

Western Illinois state normal school, Macomb.

Division of registration—

Examining committees:

Architects.

Barbers (12 district committees).

Chiropodists.

Dentists.

Embalmers.

Horseshoers.

Medical practitioners.

Nurses.

Optometrists.

Pharmacists.

Structural engineers.

Veterinarians.

Immigrants commission.

The presidents, deans, teachers, scientific staff of the normal schools and one private secretary for the president of each normal school are exempt from civil service.

Upon the action and report in writing by a majority of certain persons designated for this purpose for each profession, trade or occupation, the director of registration and education has the power to exercise various functions in connection with the several laws regulating the trades, professions and occupations enumerated above. He can exercise these functions only upon the action and report in writing by a majority of the persons designated for each profession, trade or occupation, by the director to assist in the administration of the laws. Among these powers thus exercised by the director of registration is the power to conduct examinations to determine the qualifications and fitness of applicants, to prescribe standards of preliminary education necessary for admission to these examinations, to issue licenses and to act upon their revocation or renewal.

The director of registration and education is ex-officio chairman of the board of vocational education.

The statutes provide for a board of examiners of plumbers in every city, town or village of the state having a population of ten thousand or more, and the department of registration and education is charged with the enforcement of the act creating this board and providing for the licensing of plumbers.



## V. DESCRIPTION OF THE FUNCTIONS OF BOARDS, COMMISSIONS, DEPARTMENTS AND OFFICES NOT CREATED BY THE CONSTITUTION AND NOT UNDER CIVIL ADMINISTRATIVE CODE.

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There are a number of boards, commissions, departments and offices in this state which are not created by the constitution, and are not under the provisions of the civil administrative code. For the purposes of this bulletin, these governmental agencies may be classified according to the method of appointment, as follows:

1. Appointed by the Governor—
  - Adjutant General.
  - Commission for the Uniformity of Legislation in the United States.
  - Penitentiary Commission.
2. Appointed by the Governor with the advice and consent of the Senate—
  - Civil Service Commission.
  - Court of Claims.
  - Historical Library.
  - Lincoln Park and the West Chicago Park Commissioners.
3. Ex-officio—
  - Board for Vocational Education.
  - Board of Commissioners of the State Library.
  - Joint Legislative Reference Bureau.
  - Primary Canvassing Board.
  - State Canvassing Board
  - Tax Levy Board.
4. Partly ex-officio and partly appointed by the Governor—
  - Board of Trustees of the Illinois State Teachers' Pension and Retirement Fund.
  - Board of Voting Machine Commissioners.
  - Centennial Building Commission.
5. Partly ex-officio and partly elected by the people—
  - Board of Trustees of the University of Illinois.
6. Partly ex-officio and partly appointed by an ex-officio board—
  - Library Extension Commission.
7. Partly ex-officio and partly from officers and members of various societies—
  - Farmers' Institute.
8. Partly ex-officio and partly appointed by a constitutional state officer—
  - Teachers' Examining Board.
9. Appointed by the University of Illinois—
  - Board of Examiners in Accounting.

### 1. Appointed by the Governor.

**ADJUTANT GENERAL.** The adjutant general is appointed by the commander-in-chief (the Governor) and he is ex-officio chief of staff, inspector general, quartermaster general, commissary general, paymaster general, and chief of ordnance of the state forces. He has the rank of brigadier general. He and his assistants must be men of military training and experience and each must have had service as an officer of not less than five years, at least three of which shall have been in the line. On the recommendation of the adjutant general, the Governor appoints from officers or ex-officers of the national guard or naval reserve, not below the rank of captain or lieutenant, the following assistants to the adjutant general: One adjutant general, one inspector general, one assistant quartermaster and one ordnance officer, each with rank of colonel, and one assistant quartermaster with rank of captain.

The adjutant general, the assistant adjutant general, the assistant quartermaster general and the assistant quartermaster are all required to reside at the state capitol and give their entire time to their military duties.

An adjutant general with the rank of colonel is chief assistant to the adjutant general, and performs the duties of the adjutant general, in the event of his disability or absence from the state. The department also has one lieutenant colonel and three majors. The adjutant general receives a salary of \$7,000 per annum.

The Governor makes all appointments in the commissioned rank of the national guard and the naval militia. Commissions evidencing all appointments must be signed by the Governor and attested and issued by the adjutant general. All positions in the military service are exempt from civil service.

**COMMISSION FOR THE UNIFORMITY OF LEGISLATION IN THE UNITED STATES.** This commission was established by an act passed in 1907. It consists of five men appointed by the Governor for a term of four years. Its function is to ascertain the best means of effecting uniformity in the laws of the states. Its duties are to examine the subjects of marriage and divorce, commercial paper, insolvency, form of notarial certificates, descent and distribution of property, acknowledgment of deeds, execution and probation of wills, and other subjects on which uniformity is desirable, to represent Illinois in conventions and congresses of like commissions, and to devise and recommend such other courses of action as shall best accomplish the purposes of the act. The commissioners are required to report biennially to the Governor at least thirty days before the convening of the General Assembly, and the Governor must submit such report with his recommendations to the General Assembly.

**PENITENTIARY COMMISSION.** This commission was established in 1907. It consists of three members appointed by the Governor and he has the power to fill vacancies occurring in the commission. The commissioners serve without pay but receive their reasonable and necessary expenses. They elect one of their number president and another secretary.



The function of this commission is to select, plan and supervise the construction of a re-located Illinois state penitentiary and Illinois asylum for insane criminals at or near the city of Joliet, Illinois. They are given the right to acquire title to the land by condemnation under the eminent domain laws of the state. They are authorized to employ architects, superintendents, agents, overseers and workmen and make all necessary contracts. If they deem it advisable they may let by contract the construction of the buildings to the lowest and best responsible bidder.

In the construction of the penitentiary the commission is required to use as far as possible the labor of convicts confined to the Illinois state penitentiary. Whenever such convicts are employed, the warden of the Illinois state penitentiary is directed to provide for their care and custody.

The conveyances of the site of these buildings must be passed upon and approved by the attorney general, and the deeds must be filed in the office of the secretary of state. The auditor is directed to pay out money appropriated upon vouchers signed by a majority of the commission.

## **2. Appointed by the Governor with the Advice and Consent of the Senate.**

**CIVIL SERVICE COMMISSION.** The state civil service commission was established by an act passed in 1905. The commission is composed of three members appointed by the Governor with the advice and consent of the senate for a six year term. Not more than two members may be of the same political party. The Governor may remove any commissioner for want of moral character, incompetency, neglect of duty, or malfeasance in office. He must at the same time report in writing any such removal to the senate with his reasons therefor and if the senate is not in session this report is filed with the secretary of state, who transmits it to the senate within ten days after the commencement of the next session.

Each commissioner receives \$3,000 per annum and necessary traveling expenses. Commissioners may hold no other lucrative office or employment under the state, the United States, or any political sub-division thereof. The commissioners select one of their members as president, who receives \$1,000 additional salary per annum. They meet in Springfield at least once in each month except August.

The function of this commission is to regulate the selection of persons for appointive positions in the state service. The following offices, positions, and places of employment are exempt from the classified service of the state: Elective officers; judicial officers; employes of the General Assembly; all positions in the military service; notaries public; officers appointed by the Governor with the advice and consent of the senate; one private secretary and one stenographer for each elective officer in the executive department; one private secretary for the director of each department under the Civil Administrative Code, for the president of each normal school and for the president

and each dean of the University of Illinois; regular and special assistants, law clerks, special investigators and special attorneys in the attorney general's office; all presidents, deans, teachers and scientific staff of the University of Illinois and of the state normal schools; employes at the executive mansion; superintendent and assistant superintendent of capital building and grounds; bank examiners, examiners of building and loan associations, insurance actuaries, and examiners of insurance companies; superintendents, wardens and chaplains, in the state charitable, penal and correctional institutions; clerks, watchmen and policemen in the offices of the elective officers; students employed at the University of Illinois and the normal schools under civil service rules without examination or certification; technical assistants, clerks and stenographers of the vocational education board.

The law requires the appointing officers to make requisition upon the civil service commission for each position in the classified service to be filled, and the civil service commission certifies to him the name and address of the person standing highest upon the list of eligibles, as determined by competitive examinations.

The commission is directed to classify all offices and places of employment with the above exceptions. The offices and places so classified constitute the classified service and no appointment may be made except under the provisions of the law. The commission is given the power to investigate the conditions of the classified service in regard to efficiency, and is authorized to make recommendations to the officer in charge for improving the service, and in case its suggestions are not carried out, to report the fact to the Governor. It is also authorized to standardize the employment in all grades of the public service.

The civil service commission is directed to make a report to the Governor on or before the fifteenth day of January of each year showing its own action, rules in force, the practical effects thereof, and suggestions for the effectual accomplishment of the purposes of the act. The Governor may require a report from the commission at any time. The commission has power to compel the attendance and testimony of witnesses, the production of books and papers, at hearings and investigations. It employs a chief examiner who is ex-officio secretary of the commission and works under its direction. He superintends all examinations. His salary is \$3,500 per annum. Boards of examiners or trial boards (not in the official service of the state) receive not to exceed \$5.00 per diem and necessary traveling expenses.

The Governor may not approve a voucher for services of any person employed in violation of the provisions of this act. The commission certifies to the state auditor all appointments and removals in the classified service and he may only approve salaries of lawful employes upon certification of the civil service commission.

The validity of the civil service act was attacked in the case of *People v. McCullough*, 254 Ill., 9, (1912). The question involved was whether the act applied to certain employes in the offices of the elective officials. This was a suit of mandamus to force the auditor to issue to the relators, who were employes in the office of the secretary of state, warrants on the state treasurer for the amounts due them, with-



out the certification of the civil service commission as required by law. The relators contended that the certificate of the civil service commission was unnecessary for the reason that the civil service act as applied to officers whose offices were created by the constitution was null and void for two reasons: First, because it violated article 3 of the constitution of Illinois which declares that the powers of government are divided into three distinct departments—legislative, executive and judicial—and prohibits any department from exercising any power belonging to either of the others. In regard to this matter, the Supreme Court held that the civil service act as applied to the office of the secretary of state was not in violation of article 3, because the appointment, whether made by the secretary of state or the civil service commission, was made by the executive department. Second, it was contended that the civil service law in limiting the power of the secretary of state to make appointments was in violation of section 1 of article 5 of the Illinois constitution which names the officers who shall comprise the executive department, and provides that the secretary of state, together with the other state officers, shall perform such duties as may be prescribed by law. The result of the court's action was to apply the civil service act to the positions of assistant chief clerk, corporation clerk and bookkeeper in the office of the secretary of state, on the ground that such application was not an unlawful interference by the legislative department with the constitutional powers and duties of the office of secretary of state, although the court was badly divided. In *People v. Brady*, 275 Ill., 261 (1916), an employee in the office of the clerk of the Supreme Court sought to avoid the application of the civil service law, urging the same objections which had been made in the McCullough case. The court rejected both objections, and said: "The mention of an officer in the constitution does not place him above the law and give him the same control of his office as of his private business. He is a public officer and the business of his office must be conducted according to law. The legislature may not deprive him of the power conferred upon him by the constitution, but it has power to make reasonable regulations in regard to the means by which, and the time, place and manner in which, the duties of such constitutional officer shall be performed. The duties of a clerk may be performed by a deputy, and it is not an unreasonable regulation to prescribe reasonable qualifications for persons who may be employed as deputies and removal from office for a lack of efficiency in the performance of its duties."

**COURT OF CLAIMS.** A body called the court of claims, but not a part of the judicial organization of the state, was recreated under an act passed in 1917. The old court of claims was abolished by the Civil Administrative Code. The court consists of a chief justice and two members appointed by the Governor with the advice and consent of the senate for a four-year term commencing the second Monday in January next after the election of a Governor. They each receive a salary of \$1,500 per annum, payable monthly.

The function of the court of claims is to hear and determine private claims against the state and to hear and give its opinion on any controverted questions of claim and demand referred to it by any offi-

cer of the state. It may also hear and determine the liability of the state for accidents to its employes in accordance with the workmen's compensation act, the industrial commission being relieved from any duty with reference thereto.

The court has power to make rules for practice and procedure before the court, to compel the attendance of witnesses and the production of books and papers. The concurrence of two members is necessary to a decision in any case. The court files a brief written statement of the reasons for its determination in each case and of its awards. The authority conferred on the court of claims is by statute made exclusive, and the statute further provides that no appropriation to pay claims shall be made by the legislature unless an award has been made by the court of claims.

The secretary of state is ex-officio secretary of the court of claims. He is directed to compile and publish annually the opinions of the court. The attorney general appears for and represents the interests of the state in all matters before the court.

**ILLINOIS STATE HISTORICAL LIBRARY.** This library was established by an act passed in 1889. It is under the control and management of three trustees, appointed by the Governor, by and with the consent of the senate for a two-year term. They must be well versed in the history of the state and qualified by habit and disposition to discharge the duties of their office. They receive no compensation except actual expenses while in the discharge of their duties, to be paid upon itemized accounts, approved by the Governor.

The trustees have power to procure all books, pamphlets, manuscripts, monographs, and other material bearing upon the political, physical, religious or social history of the state of Illinois. The Illinois state historical society is a department of the historical library and the trustees are authorized to pay certain expenditures for the historical society out of the historical library appropriations. All expenditures are paid by proper vouchers approved by the Governor, and the auditing of the accounts of appropriations to the state historical society is subject to the approval of the Governor. The trustees have power to select a librarian whose salary is \$3,000 per annum.

**LINCOLN PARK AND WEST CHICAGO PARK COMMISSIONERS.** The Governor appoints the West Chicago park commissioners under an act passed in 1869, and the Lincoln park commissioners under an act passed in 1871. The appointment of these commissioners is made with the advice and consent of the senate. The park districts, whose affairs are managed by these commissioners, are located in the city of Chicago. The number of commissioners for each park district is seven and they are appointed for five year terms.

### 3. Ex-officio.

**BOARD FOR VOCATIONAL EDUCATION.** This board was established by an act passed in 1919. It is composed of the superintendent of public instruction, the director of registration and education, the director of agriculture, the director of labor, and the director of



trade and commerce, ex-officio. The director of registration and education is ex-officio chairman of this board, and the superintendent of public instruction is its executive officer.

The board is to co-operate with the federal government in the administration of the federal vocational education law, to promote the establishment of vocational classes, and to distribute the vocational education fund allotted to this state by congress. The board is empowered to appoint, without reference to the civil service law, such technical assistants, clerks and stenographers as may be necessary. The state treasurer is the custodian of the vocational education funds allotted to this state by congress.

**BOARD OF COMMISSIONERS OF THE STATE LIBRARY.** The state library was established in 1845. The Governor, secretary of state, and superintendent of public instruction constitute the board of commissioners for the management of the state library, of which board the Governor is president.

The function of the commissioners is to make and carry into effect all rules and regulations for the care, arrangement and use of the books, maps, charts, papers, and furniture of the state library. Books may be taken from the library by members of the General Assembly during sessions, justices of the Supreme Court, and the Governor and officers of the executive department.

The secretary of state is librarian ex-officio, and he has the custody and charge of the library. He is required to prepare an alphabetical catalogue of the library, and report the same to the board of commissioners who are directed to publish it. Before the auditor may issue his warrant to any member or officer of the General Assembly for his services during the session, he must be satisfied that such member or officer has returned all books to the state library, and settled all accounts for injuring books or otherwise.

**JOINT LEGISLATIVE REFERENCE BUREAU.** The joint legislative reference bureau was established by an act passed in 1913. It is composed of the Governor, and chairmen of the committees on appropriations and judiciary of the house of representatives and the senate. The Governor is ex-officio chairman of the bureau. The members of the bureau receive no compensation, but they are entitled to actual and necessary expenses incurred in the performance of their duties. They meet during the regular and special sessions of the General Assembly and at such other times as they may determine.

The function of the bureau is to collect and keep in the state capitol such laws, reports, books, periodicals, documents, catalogues, check-lists, digests and summaries of the laws of other states on current legislation as may aid the members of the General Assembly in the performance of their official duties. The bureau is required to publish a digest or summary of all bills and resolutions introduced in each branch of the General Assembly, and to furnish copies to each member on Monday of each week during the session of the General Assembly. It furnishes legal assistance to members of the General Assembly upon their request, in the preparation of bills, resolutions and amendments.

The legislative reference bureau appoints a secretary, who is required to give his entire time to the duties of the office, and whose salary may not exceed \$5,000 per annum. It also appoints other officers and employes and fixes their compensation.

The secretary of state is required to provide the bureau with suitable offices, convenient to the meeting place of the General Assembly, and with the necessary furniture, stationery and supplies. The state library is directed to co-operate with the bureau and make the facilities of the library accessible to it, and loan it material. All proper expenses are paid from its appropriations upon itemized vouchers, signed by the secretary and approved by the Governor.

**PRIMARY CANVASSING BOARD.** This board was created in 1910 by an act to provide for the holding of primary elections by political parties. In case of the nomination of candidates for offices, including the presidential primary, and that for state central committeemen and delegates and alternate delegates to national nominating conventions, for which elections certified tabulated statements of returns are filed with the secretary of state, the returns are canvassed by the Governor, secretary of state and state treasurer.

**STATE CANVASSING BOARD.** The state canvassing board is composed of the secretary of state, auditor, treasurer and attorney general. This board, or any two of them, in the presence of the Governor proceeds within twenty days after the election, and sooner if all the returns are received, to canvass the votes for United States senators and representatives, judges and clerks of the Supreme Court, judges of the circuit courts, members of the General Assembly and trustees of the University of Illinois. The persons having the highest number of votes are declared elected. In case of a tie, the secretary of state, in the presence of the other officers and the Governor, decides by lot which of such persons is elected. The Governor is directed to give those elected a certificate of election or commission, and he issues a proclamation of the results of the canvass. At the same time and in the same manner the votes on constitutional amendments and other propositions voted on by the entire state are canvassed. The abstracts of votes which this board canvasses are prepared by the county clerks, assisted by two justices of the peace of the respective counties, and sent to the secretary of state. Two copies of the abstracts are sealed in separate envelopes and both are sent to him, one addressed to the "speaker of the House of Representatives," and the other to the "secretary of state." The canvassing of votes by this board is not exclusive in many cases. By article V, section 4 of the constitution, the speaker of the House of Representatives opens and publishes the returns of every election for elective state officers of the executive department, in the presence of a majority of the two houses.

**TAX LEVY BOARD.** The Governor, auditor and treasurer are required annually, on the completion of the assessment and equalization of property, to ascertain the rate per cent required to produce the amount of taxes levied by the General Assembly. When this rate is ascertained, the auditor certifies to the county clerks the proper rates per cent to be levied and collected as state taxes.



#### 4. Partly ex-officio and partly appointed by the Governor.

BOARD OF TRUSTEES OF THE ILLINOIS STATE TEACHERS' PENSION AND RETIREMENT FUND. The Illinois state teachers' pension and retirement fund was established by an act passed in 1915. It is administered by a board of trustees consisting of five members, the superintendent of public instruction and the state treasurer, ex-officio, and three members appointed from those under the pension system, by the Governor with the advice and consent of the Senate for a term of three years. Members of the board receive no compensation except necessary expenses incurred in attending the meetings. If the board elects one of its members secretary, he receives compensation for his services. The superintendent of public instruction is ex-officio president, and the state treasurer is ex-officio treasurer of the board. The state treasurer is liable on his official bond for the proper performance of his duties and the conservation of this fund. The board of trustees meets regularly four times a year.

The function of the board of trustees is to administer the teachers' pension fund, to invest the same upon the approval of the state treasurer, and to make payment from the fund of the pensions and annuities granted in the act. The board of trustees appoints a secretary and fixes his compensation, which, with all other expenses is paid out of the teachers' pension fund. The auditor is authorized to pay all salaries, annuities and expenses upon the presentation of vouchers approved by the president and secretary of the board of trustees. Annuities are paid quarterly.

The board of trustees is directed to report annually at the first meeting after June 30. This report is transmitted to the superintendent of public instruction, and included in his biennial report to the Governor. The board of directors, board of education or other governing body of public schools in each district coming under the provisions of this act, is required each year within seven days after June 30, to forward to the state treasurer a statement of moneys retained from salaries in accordance with this act, together with such money. At the same time a copy of this report must be sent to the county superintendent. If no teacher comes under the provisions of the act, the school authorities must file a statement of that fact under oath with the county superintendent and with the state treasurer. The managing bodies enumerated must keep a complete and uniform record of data contained in these reports in such form as may be prescribed by the board of trustees of said retirement fund. The state treasurer is directed to credit all moneys received under this act to the fund designated as the Illinois state teachers' pension and retirement fund.

The act does not apply to cities and school districts having a population of over 65,000 in 1910, which had a teachers' pension system organized under a statute prior to the time this act took effect.

The board of trustees is also charged with the administration of the state institutions' teachers' pension and retirement fund, created in 1917. The provisions for the administration of this fund are practically identical with the provisions for the administration of the Illinois state teachers' pension and retirement fund. The provisions of the act apply

to any teacher employed in any state educational, charitable or correctional institution (excepting the University of Illinois) supported wholly or in part by public moneys of this state. The administrative offices, boards, commissions or officers of the various schools and institutions coming under the act are required to transmit quarterly to the state treasurer the sums retained from teachers' salaries, and to make an annual statement to him within seven days after the thirtieth day of June, of all moneys retained in accordance with the act.

**BOARD OF VOTING MACHINE COMMISSIONERS.** This board was established in 1903 and consists of the secretary of state and two persons who must be mechanical experts and not members of the same political party, appointed by the Governor for a term of four years, but removable at his pleasure. The board examines and reports on the accuracy, efficiency, capacity and safety of voting machines. Voting machines not approved by this board cannot be used at any election. Each of the mechanical experts is entitled to \$100 for his compensation and expenses in making an examination and report, to be paid by the person or corporation applying for the examination. Of recent years no work has been done by this commission and no appointments to it have been made.

**CENTENNIAL BUILDING COMMISSION.** The Centennial Building Commission is an advisory commission which was created in 1917. It consists of seven members, the Governor, president of the senate, speaker of the house of representatives, secretary of state, and three other members to be appointed by the Governor.

The director of public works and buildings with the advice of this commission is empowered to determine the exact location of the centennial memorial building, approve the plans and specifications for the building and supervise its construction. The building is to cost approximately \$850,000. It is planned to provide for a memorial hall, a Lincoln memorial room, state library, state historical library, state museum, a repository for state archives, the department of public instruction, and such other departments as may be determined by the commission having the work in charge. When completed the building will be in the custody of the secretary of state.

## **5. Partly ex-officio and partly elected by the people.**

**UNIVERSITY OF ILLINOIS.** Prior to 1885 the University of Illinois was known as the Illinois Industrial University. It was established in 1868. It is subject to the control of a board of trustees consisting of the Governor, the director of the department of agriculture, the superintendent of public instruction, and nine other trustees of whom three are elected every two years to serve for a six-year term. The trustees are voted for on the same ballots with the state officers at the general elections. In case of vacancy the Governor may fill such vacancy by appointment until the next general election. The board of trustees may appoint an executive committee of three members which, subject to its control, shall have the management and control of the



university and its affairs, when the board is not in session. The president, all deans, teachers, scientific staff and other teachers, one private secretary, and one stenographer for the president and each dean, and students employed under civil service rules, are exempt from civil service.

Each county is annually awarded one scholarship in the University of Illinois, upon examination held by the county superintendent. In addition to this, each member of the General Assembly may nominate one person who, upon passing the examination prescribed, is given a certificate of scholarship by the president of the university. All such examinations are held under rules and regulations prescribed by the president of the university.

The University of Illinois is one of the "Land Grant" colleges. It receives the interest from money invested under an act of congress passed in 1862. It is required that the curriculum of the colleges accepting the benefits of the act shall include military tactics, and such branches of learning as are related to agriculture and mechanic arts. No portion of the federal fund may be applied for the erection, purchase, preservation or repair of any buildings. An annual report regarding the progress of each college must be transmitted by the president to all the other colleges coming under the act and to the secretary of the interior, and the secretary of agriculture. All sums appropriated under this act are paid by the secretary of the treasury, upon the warrant of the secretary of the interior, to the state treasurer or other officer designated by the law of the state, who upon the order of the trustees of the college pays over said sums to the treasurer of the college. The treasurer of the college is required to report to the secretary of agriculture and the secretary of interior on or before September 1st of each year, a detailed statement of the amount received and of its disbursement.

The trustees of the university are required biennially before November first to make a report to the Governor for the period closing with the fiscal year preceding the convening of the General Assembly. The report must be so arranged as to show the acts and doings of each fiscal year separately.

Under an act passed in 1911, an annual tax levy of one mill for each dollar of assessed valuation of taxable property is levied and paid into the treasury of the state, and set apart as a fund from which money may be appropriated for the use and maintenance of the University of Illinois. In 1919 the basis of assessed value was changed from one-third to one-half of full value, and in connection with this adjustment the university tax was reduced from one mill to two-thirds of one mill.

By a separate act passed in 1909 the trustees of the university are authorized and directed to establish a department of mining engineering in the college of engineering.

**6. Partly ex-officio and partly appointed by an ex-officio board.**

ILLINOIS LIBRARY EXTENSION COMMISSION. This commission was established in 1909. The commissioners of the state library (the Governor, secretary of state, and superintendent of public instruction), appoint two persons who together with the state librarian constitute the Illinois library extension commission. The state librarian, who is the secretary of state, is ex-officio chairman of the commission. The term of office of the appointive members is two years, and they receive no compensation except traveling expenses and incidental and necessary expenses connected with the work of the commission. The library extension commission receives the advice and counsel of the state library commission and is under its control.

The function of the commission is to give advice and information to existing libraries and to communities or persons interested in starting new libraries. It operates traveling libraries and acts as a clearing house for periodicals contributed for the use of local libraries.

The commission has power to appoint a library organizer who is required to keep informed concerning the work of the various public libraries in the state, assist in starting new libraries, and at the end of each fiscal year make a report of general library conditions in the state, to the library extension commission.

**7. Partly ex-officio and partly from officers and members of various societies.**

ILLINOIS FARMERS' INSTITUTE. The Illinois farmers' institute was declared to be a public corporation of the state by an act passed in 1895. It consists of three delegates elected annually in each county of the state by the members of the farmers' institute of the county. Its affairs are managed by a board of directors consisting of the state superintendent of public instruction, dean of the college of agriculture of the University of Illinois, director of agriculture, president of the state horticultural society, president of the state dairy-men's association, and one member from each congressional district selected by the delegates therefrom and elected at the annual meeting of the institute, one-half each year for a two-year term.

The function of the farmers' institute is to assist and encourage useful education among the farmers and develop the agricultural resources of the state. The board of directors have the sole care and disposal of all sums appropriated to the farmers' institute by the state. The farmers' institute makes an annual report to the Governor of its transactions. This report includes papers pertaining to its work and addresses made at the annual meeting of the organization. The institute is required to hold an annual meeting of not less than three days' duration for the purpose of developing greater interest in agriculture.

The board of directors has power to fill vacancies in the board. It organizes by the election of a president, vice-president, treasurer and secretary, elected for a term of one year to begin on July first following their election. The secretary and treasurer may be other than members



of the board of directors. The board has power to employ and provide for the compensation of such superintendents, speakers and clerks as may be deemed proper for organizing and conducting its work. The salary of the secretary is \$2,000 a year, payable in monthly installments.

The status of the Illinois farmers' institute and of appropriations made to it, was defined in *Illinois Farmers' Institute v. Brady*, 267 Ill. 98 (1915). This case involved a petition for a writ of mandamus commanding the auditor of public accounts to draw warrants on the state treasurer without compliance by it with the appropriations act of 1913 or the state civil service law. The Supreme Court held: (1) That the fact that the act creating the farmers' institute provided that its board of directors should have sole care and disposal of all sums that may be appropriated to it, does not exempt it from the provisions of the appropriation act of 1913 requiring pay rolls for employes of such corporations and itemized bills before warrants made be drawn by the auditor of public accounts. (2) The farmers' institute, its officers, employes and board of directors are not in the service of the state and are, therefore, not subject to the provisions of the state civil service act. (3) Voluntary organizations cannot appoint to office in the state government, nor can the General Assembly give them power to do so. (4) However, appropriations to individuals and voluntary associations not in the service of the state, and for expenses which would not come within a narrow definition of term "expenses of the state government," as used in the appropriation act, are fairly included in such term if they are proper charges, assumed in the discretion of the General Assembly, as expenses of the state government.

#### **8. Partly ex-officio and partly appointed by a constitutional officer.**

**TEACHERS' EXAMINING BOARD.** The teachers' examining board was created in 1913, and is composed of five members. The superintendent of public instruction is ex-officio chairman of this board, and he appoints one person who is engaged in educational work, for a four-year term, and three county superintendents, each to serve three years, one to be appointed annually by the superintendent of public instruction upon the recommendation of the county superintendent' section of the state teachers' association at its annual meeting.

The function of the board is to administer the law concerning the certification of teachers in respect to county certificates. The board is empowered to prescribe rules for holding the examinations, and prepare uniform questions for all the state and forward them to the county superintendents under seal. All examination papers must be forwarded by the county superintendent to the teachers' examining board to be graded. Grades are returned to the county superintendent, who is empowered to issue the certificates under the rules prescribed by the board. The board may require county superintendents to make quarterly and annual reports of such data concerning certification of teachers as it may prescribe, and may make all necessary rules and regulations for the proper administration of the act.

### 9. Appointed by the University of Illinois.

BOARD OF EXAMINERS IN ACCOUNTANCY. The University of Illinois is charged with the examination of applicants and the issuance of certificates as certified public accountants, by an act passed in 1903. The university appoints a board of three examiners, two of whom must be accountants in active practice in the state, and the third may be either an accountant or an attorney skilled in commercial law. Their terms are three years, and they receive \$10 a day for time spent, and their traveling expenses. A university committee of three members is also appointed, which serves without compensation and has charge of preliminary arrangements connected with the examinations.

The board prepares examination questions, conducts the examinations, examines the papers and certifies the results to the university committee. On receipt of this certification, the successful candidates are recommended to the president of the university who issues their certificates. The university may revoke any certificate for unprofessional conduct or other sufficient cause, on notice and after a hearing. A fee of \$25 is collected from each applicant and from the fees received the university pays all expenses incident to the examinations.



## VI. ANALYSIS OF THE POWERS AND FUNCTIONS OF THE CONSTITUTIONAL STATE OFFICERS.

### Governor.

The constitution vests the supreme executive power of the state in the Governor. The actual operation of the political system prescribed by the constitution and various statutory enactments has curtailed this supreme executive power and often made the powers of the Governor ineffectual in practice. An analysis of his powers may point out some of the defects in the system.

RELATION TO THE GENERAL ASSEMBLY. The powers of the Governor in relation to the General Assembly have been outlined in detail in an earlier chapter of this bulletin. Briefly, he has power to convene the General Assembly on extraordinary occasions, to adjourn the two houses in case of a disagreement as to time of adjournment, to transmit messages concerning the condition of state affairs and his recommendation concerning legislation to the General Assembly, to submit a budget (by legislation of 1917), and to veto bills passed by the General Assembly. He in turn is dependent on the senate for confirmation of many of his appointments. The Governor wields a larger influence over legislation than the enumeration of his powers would seem to indicate. By his authority to recommend measures which he believes to be of importance and by his freedom to support his recommendations with argument and appeal, he may and frequently does occupy a position of leadership in legislation. The extent to which this leadership is recognized is shown by the fact that the two houses usually give preference to administration measures.

It has been suggested that the Governor should be empowered to add additional subjects after the General Assembly has convened, to those named in the original call for a special session. The power to call a special session is given to the Governor in forty-five states, and in only fifteen states is he required to state the purpose of the meeting. West Virginia has the additional provision that the Governor must call a special session on the application in writing of three-fifths of the members of each house.<sup>1</sup>

The Governor and all civil officers of the state are liable to impeachment. The charges must be preferred by the house of representatives, and the impeachment must be tried by the senate. No Governor of this state has ever been impeached.

Increased control over appropriations have recently been given to the Governor in several states. Budget amendments were adopted in Maryland in 1916, and in Massachusetts and West Virginia in 1918.

<sup>1</sup> Massachusetts constitutional convention bulletin No. 3. The abolition of the governor's council with a supplement on the statutory powers and duties of the governor and council 1918, p. 117.

In Maryland and West Virginia the General Assembly is denied the power to increase items in estimates presented by the Governor. In Massachusetts the power of the legislative body is not curtailed but practically the same result is obtained by giving the Governor the power to disapprove, or reduce, items or parts of items in any bill appropriating money. The Civil Administrative Code of Illinois provides for an executive budget and the provisions are workable and effectual. There will probably be some agitation in the convention for the adoption of a budget provision. Since Illinois now has a budget prepared under authority of statutory provisions which have proved workable, the adoption of a detailed constitutional budget provision hardly seems necessary. The statutory provisions for a budget are more flexible and better adapted to the ever changing financial needs of the state.

The veto power of the Governor is analyzed in the bulletin dealing with the legislative department.

In actual operation, these constitutional and statutory provisions concerning the relation of the Governor and the General Assembly have some results other than those intended. For instance, the hope of receiving appointments from the Governor may sometimes cause a member to support administration measures. The Governor in turn may find it advantageous to help or at least not to hinder the progress of certain measures, in order to have his appointments confirmed by the senate. This difficulty is most apt to arise when the Governor and majority party in the Senate are not of the same political party.

**POWER OF APPOINTMENT.** The power of the Governor over the executive administration includes his power of appointment and removal, his duty to see that the laws are faithfully executed, and the direction and control of certain acts of subordinate officials. The increase in the importance of the various appointive administrative officers has made the power of appointment the most effectual of the Governor's powers.

Limitations have been placed upon the appointing power by prescribing certain qualifications in the statutes, by delegating the power in a few cases to ex-officio boards of which the Governor is a member, and by requiring the consent of the Senate, in the case of a number of appointments. The following are typical examples of the qualifications prescribed by statute: (1) The adjutant general must have had service as an officer for not less than five years, at least three of which shall have been in the line; (2) the commissioners of the Illinois State Historical Library must be well versed in the history of the state and qualified by habit and disposition to discharge the duties of the office; (3) and the minority party must be represented in appointments to the Civil Service Commission. Definite qualifications of the first type may be of value where the work of the department is of a professional character. In practice an indefinite qualification like the second type is practically a nullity. The third type of limitation providing for minority representation on various boards is one which has been quite generally condemned. It gives the Governor the opportunity to use those appointments to exercise influence over the minority party in the General Assembly.



Another limitation of the power of appointment is effected through its delegation to an ex-officio board. The appointment of the library extension commission by an ex-officio board of which the Governor is a member, is the only case of this kind in our state government. In practice the Governor seldom takes much part in the affairs of an ex-officio board, whose members are independent of him, consequently he has little power over its appointments. We also have boards in this state which are partly ex-officio and partly appointed by the Governor, which are in actual operation quite independent of him. The Governor and some other state officers are ex-officio members of the board of trustees of the University of Illinois, but they only constitute a part of its membership. The other members are elected by the people and are independent of the Governor.

The requirement of the consent of the Senate to appointments by the Governor is an important limitation on the power of appointment. All the officers under the Civil Administrative Code, and the Civil Service Commission, the court of claims, the trustees of the historical library, the Lincoln park commissioners, the West Chicago park commissioners, and a number of others are appointed subject to confirmation by the Senate. The following quotation contains some criticism of this limitation on the power of appointment:

"The less dependent the Governor is upon senatorial confirmation of necessary appointments the more effectively he can use his power to recommend measures to the legislature and to veto undesirable legislation; in other words, the freer he is to develop the possibilities of his constitutional position as special representative of the whole people . . . ."

"In general, however, the power of appointment, subject to senatorial confirmation seems to be a source of weakness rather than of strength to state governors."<sup>2</sup>

Appointment without the consent of the Senate is not uncommon in state government. In this state the adjutant general, the commission for uniformity of legislation in the United States, the penitentiary commission, and the constitutional state officers in case of vacancies, are appointed without the consent of the Senate. In practically all the states, officers of the militia, in New York certain of the trial judges for appellate work; and ad interim appointments in case of vacancies in practically all the states are not subject to confirmation by the Senate. In Virginia none of the appointments of the governor are subject to senatorial confirmation, except the corporation commissioners. In California the five railroad commissioners are appointed without the consent of the Senate.

**POWER OF REMOVAL.** The Governor has power to remove any officer, whom he may appoint, for incompetency, neglect of duty, or malfeasance in office. He may remove officers appointed with or without the consent of the senate, and the courts cannot dictate in what manner he shall perform his duty.<sup>3</sup> His power of removal is in fact more complete than his power of appointment since he is able to remove officers whose appointments must be confirmed by the senate.<sup>3</sup>

<sup>2</sup> Holcombe, A. W. *State government in the United States* 1916, p. 338-342.

<sup>3</sup> *Wilcox v. People*, 90 Ill., 186 (1878).

The provision of the Illinois constitution concerning removal of officers does not go far enough to give him a comprehensive and effective control over the state administration. To accomplish this object, it has been suggested that the Governor should be given the power to remove elective as well as appointive officials. The Pennsylvania constitution of 1873 gives the governor power to remove officers whom he may appoint, and also many elective officers "on the address of two-thirds of the senate." The constitution of Michigan gives the governor the power to remove any state officer, except legislative or judicial, during the recess of the legislature, for gross neglect of duty or corrupt conduct, or misfeasance or malfeasance in office.

**CONTROL OF OTHER OFFICIALS.** In addition to his power of removal, the Governor has other methods of control over officers after appointment. He can control their expenditures through the executive budget, and his veto power. He can require information from them in writing concerning the affairs of their offices and any officer who makes a false report is guilty of perjury. This power is, however, of little value as a power to be exercised against other elective state officers. Various statutes require his approval of official bonds, the letting of contracts, and vouchers for expenditures. All the officers of the code being appointed by the Governor and responsible to him, he has an effectual control over them.

**LAW ENFORCEMENT.** The constitutional provision that the Governor shall see that the laws are faithfully executed gives him in actual operation but little power over the executive department. The power is vague and is not considered as giving the Governor any definite means of compelling other officials to act. In reality the execution of the laws is largely in the hands of the attorney general, the state's attorney and the sheriffs. They are the real executives as far as responsibility for the enforcement of laws is concerned. The state's attorneys and the sheriffs are locally elected. Election by the people, the imposition of statutory duties, and the vesting of an independent official discretion, have removed these officers from the control of the executive. The proposal of appointment of the attorney general by the Governor will be discussed later in this chapter. In this state the Governor has the power to remove a sheriff who allows a prisoner to be taken from his custody by a mob. In New York, Michigan, Wisconsin and a few other states, the Governor may remove sheriffs and district attorneys for neglect of duty or inefficiency.<sup>4</sup> An Oregon plan of reorganization of state government proposed that the Governor be given power to appoint sheriffs and district attorneys.<sup>5</sup>

The enforcement of law by local officers is a matter of direct concern to the state, and in case of neglect of duty, it has been urged that the Governor should be given the right to remove such local officials. To do this may be regarded as violating the principles of local self-government and municipal home rule. Municipal home rule, however, will deal primarily with the matters of purely local concern. Any state control over local offices is intended primarily to be exercised as a

<sup>4</sup> For a discussion of law enforcement see McLaughlin and Hart. *Cyclopedia of American government*. Removal of elected officials, U. S., Vol. 3, p. 178; Mathews, J. M., *Principles of American state administration*, p. 105-109.

<sup>5</sup> Beard and Shultz. *Documents on the initiative, referendum and recall*. VI Appendix. *The Proposed Oregon System*, p. 349-383.



means of control over the performance of state functions by local officers. The problem of the independence of state's attorneys will be discussed later in this chapter.

On the other hand, the Governor has been given the appointment of some local officers, who are of no aid in the execution of the laws, and who deal with matters of purely local concern. With the advice and consent of the senate, he appoints the commissioners of Lincoln park and the West Chicago park commissioners. These commissioners exercise functions which deal entirely with local park districts, and the commissioners should properly be appointed by local authorities. A number of other separate park governments have been created within the city of Chicago and there is a growing agitation to consolidate them into one district. An act consolidating the park districts of Chicago was enacted in 1915, but it was rejected when submitted to the people. The Chicago bureau of public efficiency in its report on "The park governments of Chicago," says: "The attempts to so organize the several park districts as to keep them out of politics has been futile, especially in the West park district. Making the West and Lincoln park boards appointive by the Governor has only resulted in a different brand of politics—that incident to state interests and factions and less susceptible of local control. The conditions should be faced that politics will enter to some extent into any kind of a park organization. This being true, it is submitted that the plan of organization should be such as to be most susceptible of autonomy and local control. It is easier to control one district than ten."<sup>6</sup>

The status of the West Chicago park commissioners was defined in *Wilcox vs. People*, 90 Ill., 186 (1878). Referring to the Governor's power to remove these commissioners, the Supreme Court said, "The members of the board of West Chicago park commissioners are agents, by whom, in part, the people of the state carry on the government. Their functions are essentially political, and concern the state at large, although such functions are to be discharged within the town of West Chicago."

In the enforcement of the laws the Governor also has the power to call out the state militia. As an instrument of the police power of the state, the militia has been subjected to considerable criticism of recent years. At the 1919 session of the General Assembly a bill for the establishment of a state police, modeled on the Pennsylvania state constabulary, evoked considerable interest but failed to be enacted. In this connection it may be interesting to note that the governors appoint the police commissioners of three of the more populous cities of the country, Boston, St. Louis and Baltimore. In some states the governors have been given the power to remove certain municipal officers as well as county officers.

The election of so many independent state officers makes the Governor's power to see that the laws are faithfully executed a nullity. A very small measure of control over them is conferred on the Gov-

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<sup>6</sup> Chicago bureau of public efficiency. *The park governments of Chicago*. 1911. p. 174.

ernor, but even when such control is conferred on him, it is ineffectual in practice. They, too, are elected by the people and, in fact, responsible to the people alone. They have been given by statute the administration of many important laws, and these laws are administered independently of the Governor. For instance, the state highway division, operates under the code, and through it the Governor has direct control of highway administration. However, the funds expended for highway purposes are largely the receipts from automobile licenses. The secretary of state has been charged with the licensing of automobiles, and exercises this function in entire independence of the Governor, who is only responsible to the people for results in highway construction commensurate with the amount of automobile license fees collected.

**PARDONING POWER.** The Governor, through his pardoning power, has an authority which bears a close relation to the administration of justice. The constitution says: "The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor." In accordance with this provision, the statutes require application for pardons to be made through the division of pardons and paroles in the department of public welfare. Its action on such applications is only advisory to the Governor.

The President of the United States has "power to grant reprieves and pardons for offenses against the United States except in cases of impeachment." The United States constitution does not forbid pardon before conviction as the Illinois constitution does. With the exception of six states (Kansas, Kentucky, Maryland, Oregon, Oregon, Vermont, Washington), the constitutions expressly permit the exercise of the pardoning power only after conviction.

In most of the state constitutions, the pardoning power is divided into (1) commutation of sentences; (2) pardons, remission of fines, penalties and forfeitures; and (3) granting of reprieves. In more than half of the states the power to commute sentences, and to pardon, except in cases of treason or impeachment, or both, and to remit fines and forfeitures is given to the Governor acting alone. In forty states he has exclusive power to grant reprieves. In most instances his power to exercise clemency is subject to regulations prescribed by law, such as the Illinois provision concerning the manner of applying for pardons. Upon the recommendation of the board of pardons or in conjunction with it, or with the approval of the board of pardons and the council, the Governor has the power to commute sentences in seven states, to pardon in nine states, to remit fines and forfeitures in six states, and to grant reprieves in three states.<sup>7</sup> Connecticut seems to be the only state in which the power to pardon is given to the legislature. In most states the constitution requires that the Governor, or the board of pardons, where it has exclusive power and the Governor is not a member of it, shall report to the legislature, at each session thereof, biennially or annually, each case of commutation, pardon, remission or reprieve, and



certain specific information concerning it. The Illinois constitution of 1848 had a similar provision.

Several state constitutions except cases of treason, with a clause permitting temporary reprieves in such cases. In California any one convicted twice of a felony can only be pardoned upon a written recommendation of a majority of the judges of the Supreme Court. In Vermont murder cases are excepted as well as treason and impeachment cases. In Oregon treason cases are excepted, but impeachment cases are not. In Texas, those convicted of treason can be pardoned only with the consent of the Senate.<sup>8</sup>

**APPOINTMENT OF JUDGES.** The Governor has the power to appoint judges in this state where vacancies occur, when the unexpired term of office does not exceed one year.<sup>9</sup>

**SUMMARY.** From this discussion of the powers of the Governor, it is apparent that, while his influence in matters of legislation is important and increasing, that outside of the departments created by the Civil Administrative Code his control over state administration is far from complete. He has little effective power of direction over many administrative officials and his power of appointment and removal is too restricted to be effective. His power to enforce the laws of the state is particularly weak. The Civil Administrative Code has strengthened his position as the actual head of the executive department, but there is still a large field of state administration over which he has slight control.

### **Lieutenant Governor.**

The lieutenant governor is the only constitutional state officer who performs no statutory duties or functions. He is an executive officer with normally legislative functions. Except in the case of succession to the governorship, the role which the lieutenant governor plays is a relatively unimportant one. He presides over the senate, but has no part in the deliberations of that body and no vote except when the senate is equally divided.

In four states, namely, Arizona, Oregon, Utah and Wyoming, it is provided that the secretary of state shall succeed to the governorship. The constitutions of thirty-five states of the union provide for the election of a lieutenant governor. In the remaining states<sup>10</sup> the succession to the governorship is vested in some other officer, usually the president of the senate or the speaker of the house.<sup>11</sup> The question has been raised concerning the necessity for the election of an officer whose main function is to fill a vacancy in another position. It has been pointed out that vice presidents of the United States and lieutenant governors of the states have usually represented a somewhat different element or point of view from the presidents and the governors; and that a change of policy in administration is more likely to arise when the chief executive is succeeded by such an official than if he were suc-

<sup>7</sup> Massachusetts. Constitutional convention bulletin No. 3. The abolition of the governor's council with a supplement on the statutory powers and duties of the governor and council, p. 118-119.

<sup>8</sup> For a discussion of the pardoning power see Massachusetts constitutional convention bulletin No. 4. The pardoning power; Fairlie, J. A. The state governor, p. 26-28.

<sup>9</sup> Const. 1870, Art. VI, Sec. 32.

ceeded by an officer appointed by the executive himself. The problem to be decided in this matter is the necessity of retaining the office of lieutenant governor as a separate elective office.

### Secretary of State.

Constitutional provisions prescribe some of the powers and duties of the secretary of state, but most of the functions performed by him are prescribed by statute. They cover a wide variety of matters. They might be classified under the following headings:

1. Keeper of records.
2. Custodian of building and grounds.
3. Furniture and supplies.
4. Elections.
5. Corporations.
6. Automobile licenses.
7. Membership on ex-officio boards and offices.
8. Miscellaneous.

From this classification it is evident that the powers of the secretary of state form a heterogeneous group of functions not closely related to each other. Many of these matters have no necessary connection with the office of secretary of state and instances may be found in other states where most of his functions, except that of keeper of certain official records, are given to some other officer or board. Most of his duties are of a ministerial character, and unlike the functions of the attorney general, do not ordinarily involve the exercise of discretionary power.

The secretary of state or the secretary of the commonwealth is an executive officer found in all the states. He is elected by popular vote in all states except Delaware, Maryland, New Jersey, Pennsylvania and Texas, in which states he is appointed by the Governor with the advice and consent of the senate.

The report of the efficiency and economy committee said:

"Some of the functions of the Secretary of State are closely related to those of other independent officers and boards; and have been considered in other reports prepared for the Efficiency and Economy Committee. In a general reorganization of the state service such positions might well be transferred from the Secretary of State and associated with other authorities dealing with the same general subject. Thus the supervision over corporations could be combined with the supervision over banks, insurance companies, and public utilities in a Department of Trade and Commerce as proposed in another part of this survey. . . .

"If the Secretary of State were made, as he should be, an officer appointed by the Governor, the loss of some of his present functions could be offset by the transfer to his department of other services and

<sup>10</sup> Arizona, Arkansas, Florida, Georgia, Maine, Maryland, New Hampshire, New Jersey, Oregon, Tennessee, Utah, West Virginia and Wyoming.

<sup>11</sup> Massachusetts. Constitutional convention bulletin No. 3. The abolition of the governor's council with a supplement on the statutory powers and duties of the governor and council. p. 119.



by giving this department more complete control over some matters, over which it has now only a partial control."<sup>12</sup>

With the organization of a department of public works and buildings under the civil administrative code the control over buildings is partially vested in this department, and partially under the secretary of state.

The secretary of state serves on eight ex-officio boards and offices. The most important office which he holds ex-officio is librarian of the state library. From 1845 to 1862 he served as superintendent of public instruction ex-officio.

The supervision of corporations was at first very generally given to the secretaries of state in the various states, but there has been a definite tendency to place this supervision under separate boards or officers of late years.

### Auditor of Public Accounts.

The constitution provides that "No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon." The auditor also has supervision over banks, and building and loan associations, a function quite distinct from the audit of public accounts. Under the present system, the auditor is responsible for the audit of his own expenditures as banking commissioner. The tendency to place unrelated functions under the auditor is discussed in "The Constitution and government of the State of New York." Discussing the office of comptroller, which corresponds to our state auditor, it says:

"Here we have an auditing office, established as a part of the constitutional machinery for fixing and enforcing administrative responsibility, and yet laboring under administrative duties assigned to it by statute, the effect of which is to destroy the disinterestedness of its audit and verification."<sup>13</sup>

The auditor is not the only state officer whose function it is to audit accounts. The Governor is charged with the examination of the accounts of the Illinois Central Railroad to determine that the state receives its share of the company's earnings.<sup>14</sup>

"All of the states have made provision for auditing the receipts and payments of the state treasury; and in all the states except three a separate state officer and department has been established for this purpose. In Wisconsin and Oregon the Secretary of State acts as Auditor; and in New Hampshire warrants on the treasury are drawn by the Governor, who annually appoints a committee of two or more members of the executive council, to audit the accounts of the state treasurer. . . .

"This official [the Auditor] is elected by popular vote in all of the states except New Jersey and Tennessee, where he is chosen by the

<sup>12</sup> Illinois. Efficiency and Economy Committee. A report on the secretary of state and law officers. In its Report, p. 951-952.

<sup>13</sup> New York state constitutional convention commission. The constitution and government of the state of New York, p. 86.

<sup>14</sup> For a discussion of the extent and character of this power of the governor see *State of Illinois v. Illinois Central Railroad Co.*, 246 Ill. 188 (1910).

legislature. His term in most cases corresponds with that of the state treasurer; and like that official, this is sometimes for a shorter period than the governor; but in a few states the Auditor has a longer term than the Treasurer, as in Illinois, Minnesota and Ohio (four years) and Pennsylvania (three years). These factors serve to emphasize the independence of the office from the chief executive; but none of the states have placed the position on the basis of judicial tenure, as are the auditing officials in Great Britain and most of the countries of continental Europe."<sup>15</sup>

In Illinois the primary function of the auditor is to act as a check on the state treasurer, and the election of these two officials who deal with finances, prevents the organization by statute of a thoroughly consolidated department of finance under the control of a single official.

In framing constitutional provisions concerning the auditor, the maintenance of his independence from the Governor has always been considered an important point. For this reason it may be suggested that, if it is considered necessary to continue the popular election of the auditor, he should not be elected at the same time as the Governor. In the Oregon plan for reorganization of the state government, the independence of the auditor is accomplished by making the auditor and the Governor the only elective officers of the executive department. A similar result is obtained in New Jersey and Tennessee by having the auditor chosen by the legislature. In most states the result of placing the control of disbursements in the hands of an official theoretically independent of the executive has been that in fact there is no real independent examination of the accounts and financial reports. The experience of European governments indicates that the accounting system and the detailed control over disbursements may well be placed in a branch of the executive administration, provided there is a subsequent audit of the accounts by an independent agency. The system adopted by the Civil Administrative Code in Illinois, vests the control over disbursements by officers appointed by the Governor in the department of finance. However, there is at present an overlapping of functions of the auditor and the department of finance, which will be discussed in the next chapter.

### Treasurer.

The state treasurer receives the public revenues from the various collecting authorities, pays the bills of the state, upon presentation of warrants of the auditor, and has custody of the public funds. These funds are deposited in various banks selected as depositories according to law. His functions are largely ministerial, and for the most part controlled by the auditor. He is a member of four ex-officio boards, only two of which deal with financial matters. The treasurer is elected for a shorter term than any of the other state officials.

Every state has a state treasurer. He is the oldest state financial official, and is elected by popular vote in most states, even where the other state officials are appointed. In Maine, New Hampshire, New

<sup>15</sup> Fairlie, J. A. A report on revenue and finance administration. In the Report of the efficiency and economy committee of Illinois, p. 148.



Jersey and Maryland, the treasurer is chosen by the legislature. In this manner he is made independent of the Governor. A similar result is secured by election at a different time or for a shorter term than the Governor, in Pennsylvania, New Jersey, Maryland, Indiana and Illinois. The organization of the financial administration of the federal government combines the functions of treasurer and auditor in one department and makes the whole department responsible to the president who is in turn responsible to the people. The success of this plan has been advanced as an argument against the need of an independent treasurer and auditor.

The committee on retrenchment of the New York State reconstruction commission recommended that the treasurer be made an appointive officer under a proposed commissioner of taxation and finance. He would be the head of the bureau of treasury. The treasurer is also an appointive officer under the proposed Oregon plan of state government.<sup>16</sup>

### Superintendent of Public Instruction.

The superintendent of public instruction has general supervision over the common and public schools, with advisory and quasi-judicial powers over local authorities, and with some administrative and financial powers. He controls the distribution of the state school funds. His relations to local authorities are principally supervisory in nature.

The superintendent of public instruction exists under some title in every state. In thirty-three states, the superintendents are elected by popular vote, in seven (Maine, Massachusetts, Minnesota, Ohio, Pennsylvania, New Jersey and Texas) they are appointed by the Governor and in eight (Connecticut, Delaware, Maryland, New Hampshire, New York, Rhode Island, Tennessee and Vermont) they are appointed by the state board of education.

Concerning the election of the superintendent of public instruction, the educational commission of this state, which was appointed in 1907, in its report made the following statement: "The election by the people, as well as that of the election by the General Assembly, is open to the objection that political affiliations and political expediency rather than merit determine the selection of a candidate for the office of superintendent of public instruction. It does not always happen that the man best qualified for the duties of the position belongs to the dominant party. Yet a political party is not liable to select a candidate outside its ranks. Again, the state superintendency is to the politicians, perhaps, the least important of the state offices."

" . . . The appointment of the school executive by the Governor or by a state board has worked well in those states in which this method of selecting this officer has been practiced. If political considerations have not always been left out of account they have in many cases been plainly ignored. In Pennsylvania, for instance, in which state the superintendent of public instruction is appointed by the Gov-

<sup>16</sup> Beard and Shultz. Documents on the initiative, referendum and recall. VI Appendix. The proposed Oregon system, p. 376.

ernor, with the advice and consent of two-thirds of all the members of the senate, there has been no strictly political appointment to the office of superintendent of public instruction during the last generation."<sup>17</sup>

The efficiency and economy committee said that there was need for an increase of the powers of the state superintendent of public instruction and a strengthening of the powers which he already possessed. It analyzed his present powers as "largely advisory and clerical in character." This commission favored the appointment of the superintendent of public instruction by the Governor.<sup>18</sup>

A recent bulletin of the United States bureau of education outlines the following objections to selecting the state superintendent of public instruction by popular vote.

"1. This method of selection limits the field from which to choose, as the superintendent must be a citizen of the given state. In states where the superintendent is appointed by the state board of education or by the Governor, this official may be selected from the country at large. Such freedom of selection is clearly in the interest of better service.

2. Where the state superintendent is selected by popular vote the salary is fixed by law. The salary cannot be adjusted to fit the person desired; but a person must be found to fit the salary.

3. Where the state superintendent is elected by popular vote the term of office is short, two to four years, and reelection is uncertain. This lack of continuity in the service is a serious handicap to the superintendent, however capable.

4. This method of appointment makes the office political and subjects it to all the fluctuations of party and factional politics."<sup>19</sup>

In favor of the election of the superintendent it may be urged that the office should be directly responsible to the people because a large proportion of the appropriations for each biennium are for educational purposes, and also because of the fact that his functions so far as they have to do with the common schools do not relate closely to that of other officers of the state. Furthermore, it may be suggested that it is doubtful whether appointment by the Governor will be any more successful in removing the office from politics than by election at a different time than other state officers. Concerning lack of continuity of service it may be noted that the present incumbent of the office was first elected in 1906, and that his predecessor served two consecutive terms. There is also another case in earlier times where Newton Bateman served ten consecutive years as superintendent, 1865-1875, in addition to an earlier period of service from 1859 to 1863.

<sup>17</sup> Report of the educational commission. In the Twenty-eighth biennial report of the superintendent of public instruction of the state of Illinois. July 1, 1908-June 30, 1910, p. 267-268.

<sup>18</sup> Mathews, J. M. A report on educational administration. In the Report of the efficiency and economy committee of Illinois, p. 412-413.

<sup>19</sup> U. S. Bureau of education. A manual of educational legislation for the guidance of committees on education in the state legislatures, 1919, p. 11.



### Attorney General.

It is the duty of the attorney general to act as attorney for the state and state officers before the courts, and to act as legal adviser to the Governor, other state officers and the General Assembly. His duties are prescribed by statute and in practice involve the exercise of considerable discretionary power. He is the chief legal officer of the state, but he has been given supervision of the inheritance tax administration which is primarily a financial rather than a legal matter. He is also ex-officio a member of the state canvassing board.

The office of the attorney general is of particular importance in this state because of the Supreme Court decision in *Fergus v. Russel*, 270 Ill., 304 (1915), holding that the common law powers which the attorney general possesses under the constitution are inherent in the office, and cannot be taken away by the General Assembly. Moreover, since the attorney general is the chief law officer of the state, appropriations to other officers and boards for legal services and attorneys' fees are invalid. Under this decision, all legal advice and services in the enforcement of the laws must be performed by the attorney general. All departments of state government are also dependent upon him for advice and interpretation of the statutes which they are directed by law to administer.

This advisory power, coupled with that of attorney for the state, makes the attorney general an important factor in the formation and execution of administrative policies. He is brought into close connection with every branch of state government, and to a large extent affects the administration of laws by all state officials.

The attorney general is chosen by popular vote in every state except Maine, New Hampshire, New Jersey, Pennsylvania, Tennessee, Vermont and Wyoming. In these states he is chosen either by the Governor alone, or by the Governor with the consent of the senate, or by joint ballot of the two branches of the legislature. In most states his powers as public prosecutor are seriously curtailed by the powers granted to the state's attorneys in their respective districts.

The attorney general of the United States is a member of the cabinet, appointed by the president, and removable by him at will. It has been suggested that a similar system in state government would be preferable to the present system of popular election. In Pennsylvania and New Jersey, two of our most populous states, the attorney general is appointed by the governor.

This question was discussed in the New York constitutional convention of 1915. President Taft spoke before the convention committee in favor of the appointment of the attorney general as follows: "When you consult a lawyer, you don't consult a judge. You consult a man who is with you, seeking to help you carry out the lawful purposes that you have. Therefore he ought to be your appointee. You select him. Now the chief executive is given an attorney general to advise and represent him in all legal matters. I don't see why he shouldn't be appointed. It would be most awkward if he was not, in Washington, I can tell you that."<sup>20</sup>

<sup>20</sup> New York constitutional convention documents, No. 11, 1915, p. 8.

In a document published by the New York state constitutional convention commission, the following statement was made: "What is of special interest is this: that a thousand opinions are asked from the law officer to one asked for from the courts; that under our system the law officer makes the law governing the administration of affairs; that making him politically independent gives to the executive another way of dodging political responsibility; that it is a conception of organization that finds its justification as a 'check' in a government which has no politically responsible head."<sup>21</sup>

Governor Goodrich of Indiana in his message to the General Assembly at the opening of the 71st biennial session, 1919, said: "The Attorney General is necessarily the legal arm of the executive; upon him must the governor depend for carrying forward many of the acts of his administration, and the appointment should be made by the Governor.

"I recommend that the office of attorney general as an elective office be abolished and that the Governor be authorized to appoint the attorney general on and after the expiration of the term of the present incumbent, Mr. Stansbury.

"The cry has been raised in some quarters that in attempting to simplify and render efficient the machinery of government of Indiana, we are tending toward a 'dangerous centralization of power.' While I believe that most of the criticism is honest, I feel sure that it arises from a hasty and immature consideration of the subject. I do not believe that we will be treading on dangerous ground if we give to the next chief executive of Indiana, whoever he may be, the right to choose his own legal adviser, a right enjoyed by every citizen of our land, a right accorded the mayor of every city in our state and by every other executive officer from the President of the United States down to the most unassuming county commissioner."<sup>22</sup>

It has been argued against appointment by the Governor that the attorney general should be independent because of his function as prosecutor of public officials. If his appointment and removal were controlled by the Governor, it has been suggested that he might be reluctant to prosecute other officials appointed by the Governor. It may be noted that the attorney general was retained as an elective officer under the proposed reorganization of the executive department of the New York state constitution submitted in 1915.

In the constitutional convention recently held in Massachusetts, a proposal to inaugurate a thoroughgoing system of law enforcement by giving the attorney general the power to appoint district attorneys was discussed. The duties of district attorneys in Massachusetts correspond to the duties of state's attorneys in Illinois. In this connection, Mr. Chas. P. Howard, of Reading, presented a resolution, providing that the attorney general should be appointed by the Governor, and should be removable by him, that he should be the head of the Law Department of the Commonwealth, and should be empowered to

<sup>21</sup> New York state constitutional convention commission. The constitution and government of the state of New York. An appraisal, p. 115-117.

<sup>22</sup> Message of Governor James P. Goodrich delivered at the opening of the 71st biennial session of the Indiana General Assembly, 1919, p. 11.



appoint district attorneys for indeterminate terms and assign them to such districts as he might deem advisable, subject to his direction and removable by him.

Mr. Pillsbury in discussing this resolution said: "It is speaking within bounds to say that the Attorney General, by and large, is quite as powerful or influential a functionary as the Governor, and the district attorney, a vastly more important character than any single judge of any court."<sup>23</sup>

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<sup>23</sup> Massachusetts. Debates in the constitutional convention, v. 1, p. 1031-1039.

## VII. LACK OF COORDINATION AND OVERLAPPING OF FUNCTIONS.

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In this chapter attention is called to several of the more important cases in which there is lack of co-ordination; largely because with respect to the same matter, powers have by statute been conferred upon statutory officers and also upon executive officers created by the constitution. The matter here dealt with becomes of importance to the constitutional convention, because a better co-ordination of functions may require not merely a change in statutory powers but also a change in the status of constitutional officers now exercising such statutory powers. The discussion of overlapping functions does not seek to be complete, and does not cover at all instances of overlapping which relate to purely statutory officers, such as those with respect to public health administration, and with respect to agriculture (the latter due in large part to the peculiar status of the Farmers' Institute).

**Finance Administration.** State finance administration is distributed between a number of elective officers and appointive boards without concentrated responsibility. Various state departments have duties of some importance in this field, including the Governor, the auditor of public accounts, the treasurer, the tax commission, the finance department, the secretary of state (as receiver of corporation fees and automobile licenses), the attorney general (in supervising the inheritance tax), the department of trade and commerce (as receiver of insurance fees and taxes), the tax levy board, the court of claims, and the state depository board. Some auditing powers are vested in the civil service commission through its control of state employes, and in the department of public works and buildings, through its power over state contracts, and supervision of purchasing.

The procedure necessary in the payment of salaries of state employes under the Civil Administrative Code will illustrate the working of some of the components of this financial system. A monthly payroll is sent by the department issuing it to the civil service commission for its certification that none of the employes are employed in violation of the provisions of the civil service act. It is then sent to the department of finance, where it must be audited and approved. The department of finance sends it to the auditor, who again ascertains that the payments therein specified are authorized by the appropriation act, a repetition of the work of the department of finance. The auditor then issues warrants on the treasurer for the payment of the employes. In case a contract, or purchase of supplies, is involved, instead of personal services, the voucher issued by the department incurring the liability must also be approved by the department of public works and



buildings. Every payment of money from the state treasury by a department under the Civil Administrative Code involves this cumbersome financial procedure.

The constitution seems to designate the auditor as the chief financial officer of the state, but in fact he exercises no further power than to see that no money is paid out of the state treasury without authority of law. Statutes have directly conferred powers of financial control on other state officials. The Governor for instance, under the charter granted the Illinois Central Railroad, is given the power to pass upon the correctness of the accounts of the railroad in order to determine the amount of the 7% gross receipts tax due to the state.<sup>1</sup>

Most of the statutes creating the departments outside of the Civil Administrative Code provide that vouchers for expenditures must be approved by the Governor, and the approval of these vouchers has been delegated by the Governor to an administrative auditor in the department of finance.

The function of the department of finance is to provide a centralized control of the expenditures of all departments subject to the Governor and to prepare a state budget. The court of claims is given the power to adjudicate claims against the state, but their adjudication is in effect merely a recommendation to the General Assembly, which must make the necessary appropriations before claims are paid. The treasurer must open the bids for the deposit of state moneys in the presence of the auditor and the director of finance, but the power to pass on such bids is in the treasurer alone.

The administration of the revenues of the state (as distinguished from its expenditures), is vested in the following departments and officials: the tax commission, the tax levy board, the department of trade and commerce (insurance fees), the attorney general (inheritance tax), the secretary of state (corporation and automobile fees). The last two officers mentioned are not responsible to the Governor, and his supervision over revenue collection is incomplete.

The reorganization plan of the New York State Reconstruction Commission makes an effort to keep the auditing functions separate from other financial agencies. It proposes the organization of a department of audit and control, whose head is to be a comptroller elected for the same term as the Governor, and a department of taxation and finance under the proposed organization. The latter department is to be divided into five bureaus:

Bureau of taxation and revenue;

Bureau of the treasury (whose head should be an appointed state treasurer);

Bureau of motor vehicles;

Bureau of purchasing;

Bureau of administration.<sup>2</sup>

<sup>1</sup> For a discussion of the extent of this power, see *State v. I. C. Railroad Co.*, 246 Ill. 188 (1910).

<sup>2</sup> New York state reconstruction commission. Draft of summary of report on retrenchment and reorganization in the state government, 1919, pp. 15-17.

**Educational agencies.** The public elementary and secondary schools of Illinois are primarily directed by local authorities, under the provisions of state laws, with a limited supervision by the state superintendent of public instruction. The normal schools and the state superintendent of public instruction. The normal schools and the University of Illinois are under state control. The government and management of the normal schools is vested in a normal school board in the department of registration and education. This board consists of nine officers appointed by the Governor, together with the director of registration and education, who is ex-officio chairman, and the superintendent of public instruction, who is ex-officio secretary of the board. This board acts independently of the department of registration and education and the superintendent of public instruction has no control over it. The director of the department of registration and education, the chairman of this board, is the chief executive of a department of which this board is a part, and the heterogeneous activities of this department include the licensing of some twelve different professions, trades and occupations, and the management of the state museum, and various scientific surveys. We have the anomalous situation of the normal schools being managed by a board directly responsible to the Governor, and in actual operation, quite independent of the superintendent of public instruction, the nominal head of the school system of the state.

The University of Illinois is under the control of a board of trustees consisting of the Governor, the director of the department of agriculture, the superintendent of public instruction and nine trustees, three elected every two years to serve for a six year term. The trustees are voted for on the same ballots with the state officers at the general election, that is, their election is partisan. Their nomination, however, is not by primary but by convention.

"The popular election of trustees tends to lengthen the state ballot where it should be shortened, and contains a possibility, at least, of injecting political considerations where they should not be allowed to enter.

"A change in the method of electing the members of the board of trustees for the State University should be considered. Even if continued as a body chosen by popular election, the time and manner of election should be changed. In Michigan the regents of the State University and the trustees of the State Agricultural College are elected at the biennial April election for judges of the Supreme Court. The trustees of the University of Illinois might be elected at the time of the township and city elections in April; and provision made for non-partisan nominations for those positions.

"In most of the states the board of trustees or managing board for the state university is appointed by the Governor, usually with the consent of the Senate; and the adoption of this method should also be taken into consideration."<sup>3</sup>

<sup>3</sup> Mathews, J. M. A report on educational administration. In the Report of the Efficiency and Economy Committee of Illinois, pp. 427-428.



In the department of registration and education there are also the following scientific surveys: the natural history survey, the water survey, the geological survey, and the entomological survey, and the board of natural resources and conservation advisers. This department also has control of the state museum. The board of trustees of the State University has established an agricultural experiment station and an engineering experiment station. These experiment stations are supported out of the regular university funds, and the agricultural experiment station receives some funds from the United States. A cooperative investigation of coal mining problems has been established by agreement between the geological survey division, the University department of mining engineering, and the United States Bureau of Mines. Concerning organization of these surveys before the enactment of the Civil Administrative Code, the report of the efficiency and economy committee contains this statement:

"There seems to be room for improvement in the administrative organization of the state's scientific services, by placing them under the same general supervision. This may be done either by placing them under the university board of trustees, as is now the case with the water survey and the natural history laboratory, or by establishing a commission on natural resources in place of and similar to the present State Geological Commission."<sup>4</sup>

No question of reorganization presents more difficulties than that of the libraries. The state of Illinois maintains the following libraries in Springfield; the state library, the library extension commission library, the law library, state museum library, and the legislative reference bureau library. Outside of Springfield there are libraries maintained in connection with the university, state normal schools, various charitable and penal institutions, the appellate courts. The office of the superintendent of public instruction, the office of the public utilities commission and other departments and commissions in Springfield also maintain small libraries. In any reorganization or consolidation of these libraries the state law library, because of its close relation to the Supreme Court, is likely to remain an independent agency. The primary function of the legislative reference bureau is that of bill drafting and furnishing information to members of the General Assembly, and the maintenance of a library is merely incidental to these functions. The historical library has a distinct function with reference to its research and publication work. However, it is undoubtedly true that there is duplication in the work of these libraries and a general lack of coordination of their activities.

The Governor is chairman of the legislative reference bureau, and the state museum library being under the code, he has direct control of it. The Governor is ex-officio a member of the board of commissioners which nominally controls the state library and the library extension commission. The secretary of state, however, being ex-officio state librarian and chairman of the library extension commission is the actual force in the management of these libraries. The superin-

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<sup>4</sup> *Ibid.*, p. 477.

tendent of public instruction, to whose work the library management is most germane, like the Governor, is ex-officio a member of the board of commissioners of the state library.

From this outline it may be seen that there are important questions in library administration to be solved in this state, and many difficulties in the way of their solution. In this connection the plan of organization of the state libraries in New York and Indiana as a branch of their educational system is interesting. The law library, however, in New York, and the legislative reference bureau in Indiana are under separate management. Ohio, Texas and California have appointive library boards, and the state libraries under their jurisdiction include all or at least the most important library services. In many of the states there are separate authorities for different phases of library work as in Illinois.<sup>5</sup>

The vocational education board is a separate board of which the superintendent of public instruction, and the director of the department of registration and education, are ex-officio members. This completes the enumeration of the agencies whose work is educational in character.

The main problem for the consideration of a constitutional convention concerning these agencies is in connection with the framing of provisions concerning the office of superintendent of public instruction. The report of the educational commission (1907) and the report of the Efficiency and Economy Committee (1915), both recommended the creation of a state board of education and the strengthening of the power of the superintendent of public instruction. We have discussed the suggestion of making him an appointive officer in the preceding chapter.

The United States Bureau of Education, in a recent bulletin, contains the following discussion concerning state educational organization:

"Modern educational development is toward the state board of education as the administrative head of the state's educational system. Thirty-seven states leave the entire direction of the public school system to such boards. Several states have no such state boards; in several others, boards have been organized since the passage of the Smith-Hughes act to administer the funds provided under this act; and in others again the state boards of education administer only the higher educational institutions, as the university, agricultural college and normal schools.

"Of the thirty-seven states with state boards of education, eight have ex-officio boards, which usually comprise the Governor, the superintendent of public instruction and one or more other state officials such as secretary of state, attorney general, treasurer, auditor, etc. Of the 28 states, with appointed state boards, 22 leave the appointment to the Governor subject, in most cases, to approval of the state Senate; four states leave the selection of the boards to the state legislature; one state

<sup>5</sup> Mathews, J. M. A report on educational administration. In the Report of the Efficiency and Economy Committee of Illinois. Pp. 456-464 contain a discussion of state library administration.



puts it to popular vote; and in one state it is left to the state superintendent of public instruction."<sup>6</sup>

The Efficiency and Economy Committee recommended the creation of a department of education to include the work of the superintendent of public instruction, the normal school boards, the university trustees, the state library, a natural resources commission and other state agencies. The superintendent of public instruction was to be the executive head of the proposed organization. The educational agencies which have been consolidated in the department of registration and education, if divorced from the registration functions which are but vaguely related to education, form a good basis upon which to organize such a department, in combination with that of the superintendent of public instruction.

**Corporations.** The department of trade and commerce has jurisdiction over insurance companies, and through its nominal supervision of the public utilities commission, it has some jurisdiction over public utility corporations. The secretary of state issues charters of incorporation to most classes of corporations, and exercises some supervision over a great number of ordinary business corporations. He is also charged with the administration of the "blue sky law." The auditor of public accounts issues charters to state banks, has supervision of the state banks and banking institutions, trust companies, title guarantee companies, building and loan associations and pawnbrokers' societies. A banking law which is to be submitted to the people in November, 1920, enlarges his supervision over banks. Thus, the administration of the laws concerning corporations is divided between two elective state officials and the department of trade and commerce.

The tax commission, which is nominally a part of the department of finance, is charged with the assessment of all corporations except those for manufacturing, mercantile, mining, printing and publishing newspapers, breeding of stock and banking purposes. These corporations are assessed locally. Some classes of corporations are under the supervision of more than one state authority. Public utility corporations, trust companies, title guarantee companies, and assessment life and accident insurance companies are all chartered by the secretary of state, but are under the supervision of the public utilities commission, the auditor, or the department of trade and commerce. With the present system of independent offices there is no uniformity of method with respect to the supervision and incorporation of business corporations. Supervision over important classes of business corporations has been vested in some of the elective state officers, whose primary functions have no relation to this work, and the enforcement of these laws is thus distinctively removed from the control of the Governor.

The Efficiency and Economy Committee recommended the organization of all the agencies charged with supervision of corporations into a single department known as the department of trade and commerce.<sup>7</sup>

<sup>6</sup> U. S. Bureau of Education. A manual of educational legislation for the guidance of committees on education in the state legislatures, 1919, p. 8.

<sup>7</sup> Robinson, Maurice H. A report on supervision of corporations and related business. In the Report of the Efficiency and Economy Committee of Illinois, p. 697-752.

Such a department was organized under the code and it has supervision of insurance companies and nominal supervision of public utility corporations.

In many of the states the supervision of business corporations is divided between a number of separate officials, without correlation or organization, as in Illinois. In some states the control of banking and insurance companies is vested in the same official. Under the reorganization enacted into law in Massachusetts in 1919, this combination was made. Virginia and North Carolina consolidate all offices and boards having jurisdiction over the organization and activities of business corporations into a single state corporation commission. These commissions also act as a state board of assessors for the assessment and taxation of certain classes of corporations.

**Elections.** The secretary of state, the voting machine commissioners, the state canvassing board, and the primary canvassing board, each have functions dealing with elections. The last two are ex-officio boards, but the membership of these boards is not identical. The secretary of state is ex-officio a voting machine commissioner. These several state election authorities introduce confusion and uncertainty into the election machinery of the state, which might well be simplified through consolidation. The Efficiency and Economy Committee recommended the creation of a state board of elections to consist of the Governor, secretary of state, and attorney general, to exercise the functions of these various agencies.<sup>8</sup>

Under a plan of reorganization of the government of New York state drafted by the reconstruction commission, a bureau of elections, is created in the department of state, of which department the secretary of state is the chief. The duties of the state board of canvassers, state board of examiners of voting machines, and the state superintendents of elections would be transferred to the proposed bureau of elections.<sup>9</sup>

Such a plan might be adopted in Illinois, thereby simplifying the election machinery and strengthening the office of the secretary of state.

<sup>8</sup> Illinois. Efficiency and Economy Committee. Report 1915, p. 71.

<sup>9</sup> New York state reconstruction commission. Draft of summary of report on re-trenchment and reorganization in the state government, 1919, p. 19.



### VIII. CONCLUSIONS.

**Problem of executive reorganization.** There is an overlapping of functions and a lack of correlation in the duties of the constitutional and statutory state officers. This is mainly an overlapping of the statutory duties of constitutional officers with the duties of statutory officers, and the problem before the convention will be primarily to determine whether changes should be made as to present constitutional officers so as to permit a more ready coordination of functions. The constitutional duties of constitutional officers are relatively unimportant. This bulletin has dealt largely with the statutory organization, for its consideration is necessary in order to present the real problems at issue in the framing of an executive article in the constitution, and not with any notion that the convention will think it desirable to embody in the constitution the details of present statutes.

**Reorganization in other states.** This overlapping of functions has been a source of weakness in American state government generally and has led to reorganization and consolidation in many states. The Civil Administrative Code enacted in this state in 1917 is the most comprehensive plan of administrative consolidation that has been adopted in any state. There are, however, many departments of state government not included in the organization. Many of these departments may be correlated through statutory enactment, but the adoption of a centralized plan of state government would also involve constitutional changes. Statutory plans similar to the Civil Administrative Code have been adopted in Idaho and Nebraska.

The recent constitutional conventions in New York and Massachusetts spent considerable time on the problem of reorganization. In New York a plan was adopted providing for the creation of seventeen departments to perform the administrative functions of more than 160 existing offices, boards and agencies. The heads of most of these departments were to be appointed by the governor and were removable by him. The number of elective constitutional state officers was reduced from seven to four, leaving only the governor, lieutenant-governor, comptroller and attorney general elective. After the adoption of this plan all new administrative functions were to be assigned to one of the existing departments, and no new departments were to be created by the legislature. (In this connection it may be noted that the constitutions of Nebraska and Arkansas contain limitations on the power of the legislature to create new boards and offices.) The proposed constitution of New York containing this plan of administrative reorganization was submitted to the people in November, 1915, and was defeated.

The Massachusetts Constitutional Convention adopted an amendment concerning reorganization which was ratified by the people on November 5, 1918. This amendment reads: "On or before January 1, 1921, the executive administrative work of the Commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the Governor or Council, shall be placed. Such departments shall be under such supervision and regulation as the General Court may from time to time prescribe by law."

Accordingly, the General Court in 1919 enacted an administrative consolidation act, establishing twenty departments, excluding the Governor's office—the maximum number permitted under the constitutional amendment. The heads of four departments are the constitutional elective state officers and the other heads of departments are appointed by the Governor, with the approval of the Council, an independent body of nine members. The general scheme of organization is quite complicated and involved. Practically all the officials connected with the existing administrative agencies have been retained, their offices being continued in existence and placed under the several departments without alteration either in personnel or duties. Seven boards which apparently did not fit into the scheme elsewhere are placed under the Governor and council.

The New York plan and the Massachusetts plan present alternative plans which might be adopted by the constitutional convention. The New York plan is an example of an incorporation of statutes into the constitution. In the light of the development of the executive department of Illinois in the last fifty years, the adaptability of this scheme for this state may well be doubted. Less than one-fourth of the boards, commissions and offices we now have were in existence when the Constitutional Convention met in 1870. It is possible that the next fifty years will present a similar development. Incorporation of a detailed plan of government in the constitution would make it difficult to correlate the functions of the various departments. Moreover, any scheme adopted might in a few years prove ill-adapted to the constantly changing and increasing functions of state government. The Massachusetts constitutional amendment adopted the plan of instructing the legislature to reorganize the executive departments, but the detailed plan worked out by legislation in Massachusetts is probably not as satisfactory as the present organization in Illinois.

**Short ballot.** The short ballot is closely related to all problems of executive reorganization. If any elective state officials are made appointive, it would be necessary to provide that the present state officials would serve the rest of their terms regardless of the change.

It has been suggested that the Governor's power of appointment should be extended to include some of the officers now elected by the people. The United States government and several of the states have made many offices appointive which are elective in this state. The advocates of the short ballot argue that the increase of the Governor's



appointive power would strengthen state government by providing a unified executive department. The political party is the principal bond of union among the elective officers of the executive department. The officers have a common cause, during the campaign, but afterward their community of interest is liable to center around the problem of re-election rather than the coordination of the branches of the executive department. Almost necessarily some of the elective state officers will, after they are in office, have political ambitions which run counter to the interests of other elective state officers.

Persons opposed to the short ballot fear the centralization of so much power in the hands of the chief executive. In this connection it may be noted that the president appoints the United States marshals and district attorneys, all the judges, officers of the army and navy, local customs and internal revenue collectors, a large number of postmasters and many others. In Pennsylvania the secretary of the commonwealth, the attorney general and the superintendent of public instruction are appointed by the Governor. The only state executive officer elected by the people in New Jersey is the Governor. A separate bulletin entitled "The Short Ballot" has been issued concerning this subject.

**Civil Service.** Civil service is another important problem in state government. The object of civil service regulations is to get the state employes out of politics and away from the so-called "spoils system." Civil service attempts to fill administrative offices with the most fit persons available without regard to political affiliations. Most of the criticisms of the system have arisen from the fact that it has not always been administered in good faith.

Concerning the attitude of legislatures and constitutional conventions towards this subject, a report prepared for the New York state constitutional convention makes this statement:

"The so-called merit system of civil service reform originated in a laudable effort to abolish 'the spoils system' and the problem of the proper conditions of public employment from the point of view of efficient service to the state and justice to the employes has never received the serious consideration of any constitution or law making body."<sup>1</sup>

The constitutions of New York, Ohio, California and Colorado contain provisions concerning civil service, and it is probable that some effort will be made to have the principle of civil service recognized in the constitution.<sup>2</sup>

**Power of appointment and removal.** A brief review of the powers of appointment and removal under the present constitution may not be inappropriate. These powers concern the legislative and judi-

<sup>1</sup> New York state constitutional convention commission. The constitution and government of the state of New York, p. 3.

<sup>2</sup> See Index digest of state constitutions, p. 145; The civil service clause in the constitution. In Academy of Political Science, the revision of the state constitution, 1914, pp. 251-262.

cial departments as well as the executive. Under the constitution the Governor, with the advice and consent of the Senate, appoints all officers whose offices are established by the constitution or by law and whose appointment or election is not otherwise provided for. The Governor's power to appoint did not begin to be effective until the constitution of 1848 forbade legislative appointments. Since 1848 the General Assembly, when it has established new offices, has ordinarily vested the power of appointment in the Governor. The Governor's appointing power has thus expanded with the expansion of state functions, and its present extent is due to statutes rather than to the constitution alone.

The General Assembly has a discretion to provide that appointments to new statutory offices shall be made by the Governor with the advice and consent of the senate, or by the Governor alone, or in some other manner, provided of course, that it does not itself seek to make appointments. Aside from the general authority in the Governor under article 5, section 10, just referred to (which vests little appointing power in the Governor in the absence of statute), substantially the only constitutional power of appointment vested in the Governor is that to fill certain vacancies in elective offices (article 5, section 20, and article 6, section 32). Power to make appointments may be vested in other elective constitutional state officers or in a new statutory creation such as the civil service commission.

Not only this, but in the view of the courts, the power to make appointments is not peculiarly a function of the executive department. "The constitution does not specifically confer the power to appoint officers on any department, and does not provide that the officers or employes of any department of the government can only be appointed by that department."<sup>3</sup>

In at least one case, however, the court has said that an appointment could properly be made only by the courts.<sup>4</sup>

And in another case, took the view that the courts could not be vested with power over the appointment and removal of executive officers.<sup>5</sup>

Even though the power of appointment may constitutionally be regarded as not a purely executive function, the fact remains that it is a function primarily exercised by the executive department and that the Governor either acting alone or by and with the advice and consent of the Senate, controls the appointment to all places of importance in the state government that have been created by statute with respect to the Governor's power in this matter; therefore, the important questions are: (1) that as to whether the appointing power shall be increased by reducing the number of elective state officers; and (2) that as to the continuance of Senate confirmation.

Under the express provisions of the constitution, the power of removal is much more complicated than that of appointment. By article 5, section 12, the Governor has "power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or mal-

<sup>3</sup> *People v. Brady*, 275 Ill. 261 (1916).

<sup>4</sup> *Witter v. Cook County Commissioners*, 256 Ill. 616 (1912).

<sup>5</sup> *City of Aurora v. Schoeberlein*, 230 Ill. 496 (1907).



feasance in office." This power of the Governor extends to all appointments made either by him alone or with the advice and consent of the senate, and in exercising the power the Governor need not hold hearings or assign reasons.<sup>6</sup>

In the case of *People v. Nellis*,<sup>7</sup> the court held that it was proper for the General Assembly to vest in the Governor power to remove a sheriff under certain conditions, even though the sheriff is elected for a term fixed by the constitution, and the same principle would seem to apply to all other county officers created by the constitution.

The process of impeachment applies to "the Governor and all other civil officers of the state" (article 5, section 15). By article 6, section 30, the General Assembly may "for cause entered on the journals, upon due notice and opportunity of defense, remove from office any judge upon concurrence of three-fourths of all the members elected, of each house." Inasmuch as judges are civil officers of the state, they are subject to removal either by impeachment or by action under article 6, section 30, although other civil officers of the state (except as covered by the second sentence of article 6, section 30), are apparently removable only on impeachment. The power of impeachment apparently does not apply to officers expressly designated by the constitution as county officers.

The second sentence of article 6, section 30, provides that all officers other than judges mentioned in the judicial article "shall be removed from office on prosecution and final conviction, for misdemeanor in office," and this method of removal seems to be exclusive of any other methods. Officers other than judges mentioned in the judicial article include: boards of county commissioners.<sup>8</sup>

(Article 6, section 17); state's attorneys (article 6, section 22); the reporter of the Supreme Court (article 6, section 9); certain clerks of courts (article 6, sections 10, 18, 27); and apparently justices of the peace.<sup>9</sup>

The state's attorney who controls the machinery of prosecution is removable only on prosecution and conviction.

Statutes vesting powers of appointment in officers other than the Governor may also vest a power of removal in such officers. Under the civil service law before 1917, the civil service commission had large control not only over the appointment but also over the removal of employes in the classified civil service. By amendment of 1917, however, power to remove subordinates vests in the head of an office, subject to review by the civil service commission if removal is alleged to be for political, racial or religious causes.

Removal by impeachment and by three-fourths of the two houses of the General Assembly have never been employed in this state and are unlikely to be employed, unless extraordinary conditions develop in a particular case. These methods may, therefore, be practically disregarded as elements to be considered. Although more easily capable of use, the same statement applies to a large extent to removal of cer-

<sup>6</sup> *Wilcox v. People*, 90 Ill., 186 (1878).

<sup>7</sup> 249 Ill. 12 (1911). See, also, *Donahue v. County of Will*, 100 Ill. 94.

<sup>8</sup> But not the Cook county board. See *People v. McCormick*, 261 Ill., 413 (1914).

<sup>9</sup> Compare section 21 with section 28, and see, *Report and Opinions of the Attorney General*, 1914, pages 161, 1200.

tain officers upon conviction of misdemeanor in office. These three methods of removal are of small value as means of controlling the ordinary conduct of public officers.

The power of the Governor under the constitution to remove officers whom he may appoint, and the statutory power of certain other officers to remove their subordinates, are the only effective powers of removal now existing in the state government, although the principle laid down in the Nellis case is capable of effective application. The important questions facing the constitutional convention with respect to this matter are: (1) whether the Governor should be given power to appoint some officers now elective, such wider appointing power carrying with it automatically a similar increase in power of removal. (2) Whether the Governor should be given some express power of removal over state and local officers who are to remain elective. (3) Whether some change should not be made with respect to removals upon conviction of misdemeanor in office.

**Enforcement of law by local officials.** The control which the executive should be given over local officials is another problem for the framers of the constitution. Some such control is important in the enforcement of the laws. The executive departments exercise a slight control over local officials in the suppression of contagious diseases, assessments of property, distribution of the common school fund, appointment of county superintendents of highways and county mine inspectors, inspection of hospitals, sanitariums and various local charitable institutions, the collection of vital statistics and a few other cases. The Governor has the power to remove the sheriff in case a prisoner is taken from his custody by a mob through his fault.

**Problem before convention.** The constitutional convention is confronted with the problem of framing an executive article in a new constitution broad enough to form the basis for the operation of an efficient executive department. The functions of state government are constantly changing and increasing, and it is necessary to have broad constitutional provisions for the proper exercise of these functions. Details of executive organization in a constitution will occasion great practical difficulty, if the activities of the government of Illinois increase during the next fifty years in a manner at all comparable to their increase during the past half century.



## APPENDIX NO. 1. REFERENCES.

---

- Academy of Political Science. The revision of the state constitution. N. Y., 1914. (Proceedings, V. 5, No. 1, October, 1914.)  
 Constitutional provision for a budget. By Frederick A. Cleveland, pp. 141-192.  
 The civil service clause in the constitution. By Samuel H. Ordway, pp. 251-262.
- Alexander, Margaret C. The development of the power of the state executive with special reference to the state of New York, 1917. (Smith College Studies in History., V. 2, No. 3. April, 1917.)
- Beard, Chas. A., and Shultz, Birl E. Documents on the state-wide initiative, referendum, referendum and recall. N. Y., 1912.  
 VI Appendix. The proposed Oregon system, pp. 349-383.
- Buck, A. E. Administrative consolidation in state governments. Phila., 1919. (Supplement to the National Municipal Review, V. 8, No. 9, November, 1919.)
- Chicago. Bureau of Public Efficiency. The park governments of Chicago. An inquiry into their organization and methods of administration. Chicago, 1911.
- Fairlie, John A. The state governor, 1912. (Reprinted from Michigan Law Review, V. 10, Nos. 5 and 6.)
- Holcombe, Arthur N. State government in the United States. N. Y., 1916.
- Illinois. Directors of departments under civil administrative code. First administrative report. 1917-18. Springfield, 1918.
- Illinois. Educational commission. Final report, 1911. (In the Illinois. Superintendent of public instruction. Biennial report. 1908-1910, pp. 256-475.)
- Illinois. Efficiency and economy committee. Report. Chicago, 1915.  
 Revenue and finance administration. By John A. Fairlie.  
 Educational administration. By John M. Mathews.  
 Supervision of corporations. By Maurice H. Robinson.  
 Secretary of state and law officers.
- Illinois. Special investigating committee appointed by Hon. Edward D. Shurtleff, Speaker, in accordance with House Res. No. 78, and resolutions amendatory thereto, Jan. 14, 1908.  
 Chic. 1908. (An investigation of state institutions.)
- Lauchheimer, Malcolm H. The governor under the constitution. St. Louis, 1916. (American Law Review. V. 50, No. 5, Sept.-Oct., 1916, pp. 707-729.)
- Massachusetts. Commission to compile information and data for the use of the constitutional convention. Bulletins. Boston, 1918, 2v.  
 No. 3. The abolition of the Governor's Council.

No. 4. The pardoning power.

No. 10. The short ballot.

Massachusetts. Constitutional convention. 1917-1918. Debates in the Massachusetts Constitutional Convention. 1917-1918. Boston, 1919. 2 v.

Mathews, John Mabry. Principles of American state administration. N. Y., 1917.

New York. Committee on retrenchment of the reconstruction commission. Draft of summary of report on retrenchment and reorganization in the state government. N. Y., 1919.

New York. Constitutional convention commission. The constitution and government of the state of New York. Albany, 1915.

O'Neal, Emmet. Reorganizing the state governments. 1918. (Constitutional Review. V. 2, No. 4, October, 1918.)

U. S. Education Bureau. A manual of education legislation for the guidance of committees on education in the state legislatures. Wash., 1919. (Bul., 1919, No. 4.)

U. S. Public health service. Public health administration in Illinois. By S. B. Grubbs. Wash., 1915. (Public health reports reprint, No. 275, May 21, 1915.)



## APPENDIX NO. 2. TEXT OF ARTICLE V. CONSTITUTION OF ILLINOIS.

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### ARTICLE V.

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#### EXECUTIVE DEPARTMENT.

Section 1. The executive department shall consist of a Governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction and attorney general, who shall each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election and until his successor is elected and qualified. They shall, except the lieutenant-governor, reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

Sec. 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the Governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

Sec. 3. An election for Governor, lieutenant-governor, secretary of state, auditor of public accounts and attorney general shall be held on the Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and seventy-two, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November in the year one thousand eight hundred and seventy, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

Sec. 4. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the secretary of state directed to the "Speaker of the House of Representatives," who shall, immediately after the organization of the House and before proceeding to other business, open and publish the same in the presence of a majority of each House of the General Assembly, who shall, for that purpose, assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest number of votes, the General Assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the General

Assembly, by joint ballot, in such manner as may be prescribed by law.

Sec. 5. No person shall be eligible to the office of Governor or lieutenant-governor who shall not have attained the age of 30 years, and been, for five years next preceding his election, a citizen of the United States and of this state. Neither the Governor, lieutenant-governor, auditor of public accounts, secretary of state, superintendent of public instruction, nor attorney general shall be eligible to any other office during the period for which he shall have been elected.

Sec. 6. The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

Sec. 7. The Governor shall, at the commencement of each session and at the close of his term of office, give to the General Assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

Sec. 8. The Governor may, on extraordinary occasions, convene the General Assembly, by proclamation, stating therein the purpose for which they are convened, and the General Assembly shall enter upon no business except that for which they were called together.

Sec. 9. In case of a disagreement between the two houses with respect to the time of adjournment, the Governor may, on the same being certified to him by the house first moving the adjournment, adjourn the General Assembly to such time as he thinks proper, not beyond the first day of the next regular session.

Sec. 10. The Governor shall nominate, and by and with the advice and consent of the Senate (a majority of all the Senators elected concurring by yeas and nays), appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly.

Sec. 11. In case of a vacancy, during the recess of the Senate, in any office which is not elective, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some persons to fill such office; and any person so nominated who is confirmed by the Senate (a majority of all the Senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the General Assembly.

Sec. 12. The Governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty or malfeasance in office; and he may declare his office vacant and fill the same as is herein provided in other cases of vacancy.

Sec. 13. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such



regulations as may be provided by law relative to the manner of applying therefor.

Sec. 14. The Governor shall be commander-in-chief of the military and naval forces of the State (except when they shall be called into the service of the United States), and may call out the same to execute laws, suppress insurrection and repel invasion.

Sec. 15. The Governor and all civil officers of the State shall be liable to impeachment for any misdemeanor in office.

Sec. 16. (1) Every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the Governor; but in all such cases the vote of each house shall be determined by yeas and nays, to be entered upon the journal. \*Bills making appropriations of money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections. And if the Governor shall not approve any one or more of the items or sections contained in any bill, but shall approve the residue thereof, it shall become a law, as to the residue, in like manner as if he had signed it. The Governor shall then return the bill, with his objections to the items or sections of the same not approved by him, to the house in which the bill shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider so much of said bill as is not approved by the Governor. The same proceedings shall be had in both houses in reconsidering the same as is hereinbefore provided in case of an entire bill returned by the Governor with his objections; and if any item or section of said bill not approved by the Governor shall be passed by two-thirds of the members elected to each of the two houses of the General Assembly, it shall become part of said law, notwithstanding the objections of the Governor.\* Any bill which shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the General Assembly shall by their adjournment prevent its return, in which case it shall be filed with his objections in the office of the Secretary of State, within ten days after such adjournment, or become a law.

Sec. 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the state, or other disability of the Governor, the powers, duties and emoluments of the office for the

<sup>1</sup> As modified by the third amendment to the Constitution of 1870. The joint resolution (L. 1883, p. 186) was adopted by the Senate February 28, 1883, concurred in by the House May 23, 1883, and ratified by the vote of the people November 4, 1884, and proclaimed adopted November 28, 1884.

The amendment is practically the original section with the addition of the paragraphs between the (\*—\*) and the substitution of the italicized word *upon* for the original word "on."

residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant governor.

Sec. 18. The lieutenant governor shall be president of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the lieutenant governor, or when he shall hold office of Governor.

Sec. 19. If there be no lieutenant governor, nor if the lieutenant governor shall, for any of the causes specified in section seventeen of this article, become incapable of performing the duties of the office, the president of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the president of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the speaker of the House of Representatives.

Sec. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such a manner as provided by law. An account shall be kept by the officers of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the Governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

Sec. 21. The officers of the executive department, and all the public institutions of the state, shall, at least ten days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports to the General Assembly together with the reports of the judge of the Supreme Court of defects in the constitution and laws; and the Governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices.

Sec. 22. There shall be a seal of the state, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

Sec. 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the Constitution, shall be paid in advance into the State treasury.



Sec. 24. An office is a public position created by the Constitution or law, continuing during the pleasure of the appointing power, or for a fixed time with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

Sec. 25. All civil officers, except members of the General Assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of.....according to the best of my ability."

And no other oath, declaration or test shall be required as a qualification.

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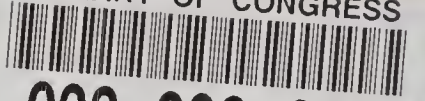








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